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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~285~~ 69

THE TWIN-LICK OIL COMPANY OF WEST VIRGINIA, APPELLANT,

vs.

WILLIAM MARBURY.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

FILED OCTOBER 18, 1873.

SUPREME COURT OF THE UNITED STATES.

No. 285.

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vs.

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APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

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1 *Original bill of complaint.—Filed April* 10, 1871.

In the supreme court of the District of Columbia.

THE TWIN-LICK OIL COMPANY OF WEST VIRginia, complainants,
vs.
WILLIAM MARBURY, DEFENDANT.
No. 2345. Equity docket 11.

The complainant states as follows:

1. The complainant is a body-corporate created by the laws of the State of West Virginia, and by its charter having its principal office or place of business in the city of Washington, in the District of Columbia.

2. The defendant is a citizen and resident of the District of Columbia.

3. That on or about the 8th day of September, in the year 1866, John T. Cochrane, William D. Colt, J. Carter Marbury, Jordan Stabler, and the defendant, William Marbury, all of whom, except the said Stabler, were citizens of the District of Columbia, associated themselves
2 together by an agreement which, being duly filed and recorded in the office of the secretary of state of West Virginia, constituted the parties thereto a body-corporate under the laws of the said State by the name of the "Twin-Lick Oil Company, of West Virginia," for the purpose of boring for, pumping, and selling oil, and became the charter of said company. A copy thereof is hereto annexed, marked "Exhibit A."

4. That the said company then proceeded to occupy a certain parcel of land in Wood County, West Virginia, hereinafter described, of which a lease had been previously procured by certain of the stockholders, of which lease a copy is hereto annexed, marked "Exhibits B & C."

And the company proceeded to bore a well thereon, and having succeeded in reaching oil they obtained the necessary machinery, pumps, tanks, and other apparatus, and entered upon the business of pumping and selling oil.

5. That on and for some time previous to the first day of February, 1867, the board of directors of said company consisted of William
3 D. Colt, Jordan Stabler, Oscar R. Hough, J. Carter Marbury, and the defen'ant, William Marbury; and William D. Colt was president, and Jordan Stabler was secretary, of the said company.

And on or about the said first of February, 1867, at an adjourned meeting of the said directors, at which were present only William D. Colt, J. Carter Marbury, and the defendant, William Marbury, the following resolution was passed:

"Resolved, That an assessment of $100 per sixteenth be levied and paid at once, and that Dr. William Marbury be requested to endeavor to borrow $2,000 upon a mortgage of the property, and a further security of a pledge of the stock of the company."

The complainant does not allege or admit the regularity or validity of the said act of the said board, but states the same as a fact in the case.

6. That the said defendant, William Marbury, thereupon undertook to collect, or aid collecting, the said assessments, some of which were paid at various times between the first of February and the tenth of July, 1867, and others of said assessments have never been paid.

4 7. That the said defendant himself undertook to lend to the company the sum of two thousand dollars; and the said Wm. D. Colt,

as president of the said company, executed and delivered to the said defendant a promissory note for $2,000, payable 90 days after date, and dated February 15th, 1867, and to secure the same, on the 13th of March, 1867, made a deed, a copy of which is hereto annexed, marked "Exhibit D," whereby the said president, for the said company, conveyed to one William Thomas all its interest in the property therein described, being a lease of one and five-eight's acres of land situated in Wood County, State of West Virginia, known as lot thirty-six of the Volcanic Oil and Coal Company's land, on Twin-Lick Fork of White Oak Fork, together with the tanks, tools, shanties, oil-tubing, engines, franchises, and all other property of the company, whether then in possession or thereafter to be acquired.

8. That the said defendant, after the said thirteenth day of
5 March, 1867, and before the 10th day of July, 1867, became the secretary and treasurer of the said company and assumed the duties of said office, and held the said office until the 20th day of July, 1867, when he resigned the said office, and he was continuously a director of said company from some time prior to February, 1867, to some time subsequent to June, 1870.

9. That the said note of the said company fell due on or about the 19th day of May, 1867, and the defendant thereafter proceeded to cause the property so as aforesaid conveyed in trust to be sold at public auction by the said William Thomas, trustee, on the tenth day July, 1867. That the said defendant controlled and regulated the said sale in all things, and the said sale was conducted in conformity with the directions and wishes of said defendant, and was made in his presence.

6 10. That at the said sale one Reuben E. Colt became the highest bidder, and purchased *of* the said property for the price of $1,100; and then, with his concurrence, the said trustee made to the said defendant a deed of conveyance, of which a copy is hereto annexed, marked "Exhibit E," purporting to convey to him the said leasehold and other chattels; that, in fact, the said Colt had been employed by the said defendant to purchase the property for him, the said defendant, and the bidding of the said Colt was a contrivance by the defendant to avoid the appearance of purchasing said property himself.

11. That the said defendant by means of his offices as director, secretary, and treasurer of the said company, all of which he held at the time of said sale, and had held for some time previously, had become acquainted with the business of said company and with the value of its said property, and thus possessed peculiar means for taking advantage of the necessities of the company and forcing a sale at favorable
7 time for his own purposes, and had an advantage over other bidders in knowing facts of which they were ignorant in regard to said property.

12. That a very material circumstance effecting the value of the said property was concealed from, or at least not made known to, the bidders at said sale; that is to say, that there was at that time upon the land described in the deed of trust a very valuable well, known as the "Warner well," yielding large quantities of oil and alone worth many times the price for which the property was sold; and had the existance of said well on the property been made known the property could have realized from five to fifteen thousand dollars. That the spot where the said Warner well was sunk had been taken possession of by the owners of an adjoining lease, owing to an accidental confusion of boundaries, and the complainant cannot say whether the defendant did or did not

8 know that the said well was on the complainant's property, but the complainant charges that he had sufficient notice of its being on the complainant's property, and that, being an officer of the said company, and being present at the sale, it was his duty to have examined into the fact, which was susceptible of easy and immediate proof; and the complainant charges that either the defendant did know the fact and concealed it or was guilty of gross neglect of duty in not informing himself in respect thereto.

13. That the said defendant, after procuring the said conveyance from the said trustee, went into possession of said property and procured from the parties holding the Warner well possession of that well; that he has received all the rents, and issues, and profits thereof, arising since the 10th day of July, 1867, amounting to not less than fifty thousand dollars, and reaching, probably, a hundred thousand dollars.

9 14. That the said defendant at the time of said sale, and both before and after it, represented to sundry stockholders of said company and others interested, that he was about to purchase or had purchased the said property for the benefit of all or certain of the stockholders, and in his intercourse with the stockholder' of the company did not claim to have purchased the property for himself, but used language in regard thereto which was at least equivocal, which language and representations tended to prevent the stockholders from inquiring into the circumstances and taking prompt measures to protect their interest in the premises.

15. That the said defendant now claimes that the conveyance made to him by William Thomas, trustee, as hereinbefore stated, was for his, the defendant's, own use and benefit, and he refused to pay over to the complainant or ⅔ for the issues and profits of the said property of the complainant, all of which is contrary to equity and good conscience.

10 And the complainants pray:

1. That the U. S. writ of subpœna may issue commanding the defendant, at the time therein prescribed, to appear in this court and answer this bill, and to abide and perform such decree as this court shall make in the premises.

2. That the said defendant may be by decree of this court declared to be a trustee for this complainant, and to hold the property hereinbefore described and conveyed to him by the said William Thomas, in trust for its use and benefits.

3. That the said defendant may be decreed to account with the complainant of and concerning the issues and profits of the tract of land hereinbefore described.

4. That the defendant may be compelled by decree of this court to reconvey to the complainant all the property conveyed to him by the said William Thomas.

5. That defendant may be enjoined from selling or disposing of
11 any personal property *or* as aforesaid conveyed to him, or any oil issuing from the tract of land hereinbefore described.

6. That the complainant may have such further and other relief as the nature of the case may require and to the court may seem just.

7. The defendant to this bill is William Marbury.

[SEAL OF COMPANY.] JORDAN STABLER,
President of the Twin-Lick Oil Company of West Virginia.
JNO. D. McPHERSON,
Solicitor for Compts.

12 *Exhibit A to bill.—Filed April* 10, 1871.

THE TWIN-LICK OIL COMPANY OF WEST VIRGINIA.

I, Granville D. Hall, of the State of West Virginia, hereby certify that an agreement, duly acknowledged and accompanied by the proper affidavits, has this day been delivered to me; which agreement is in the words and figures following:

"The undersigned agree to become a corporation, by the name of 'The Twin-Lick Oil Company of West Virginia,' for the purpose of boring for petroleum, rock-oil, or carbon-oil, and for obtaining the same by pumping or otherwise, and selling the same on the premises there obtained, or marketing the same elsewhere; which corporation shall keep its principal office or place of business at Washington, in the District of Columbia, and is to expire on the first day of July that will be in the year eighteen hundred and eighty-six.

"And for the purpose of forming the said corporation we have
13 subscribed the sum of twenty-five thousand dollars to the capital thereof, and have paid in on said subscriptions the sum of four thousand dollars, and desire the privilege of increasing the said capital by sales of additional shares from time to time to the sum of fifty thousand dollars in all.

"The capital so subscribed is divided into shares of twenty-five dollars each, which are held by the undersigned, respectively, as follows, that is to say: by John T. Cochran, of Washington City, District of Columbia, two hundred and fifty shares; by Wm. D. Colt, of the same place, two hundred and fifty shares; by J. Carter Marbury, of the same place, two hundred and fifty shares; by Wm. Marbury, of the same place, one hundred and twenty five shares; and by Jordan Stabler, of the city of Baltimore, in the State of Maryland, one hundred and twenty-five shares. And the capital to be hereafter sold is to be divided into shares of like amount.

"Given under our hands this eighth day of September, in the
14 year eighteen hundred and sixty-six.

(Signed) "J. T. COCHRAN.
"WM. D. COLT.
"J. CARTER MARBURY.
"WM. MARBURY.
"JORDAN STABLER."

Wherefore the corporators named in the said agreement, and who have signed the same, are hereby declared to be, from this date until the first day of July, eighteen hundred and eighty-six, a corporation by the name and for the purposes set forth in the said agreement.

Given under my hand and the great seal of the State, at the city of Wheeling, this thirtieth day of October, eighteen hundred and sixty-six.

[SEAL.] GRANVILLE D. HALL,
Secretary of State.

The words sixty-six, on the 28th line of second page, being inserted by mistake, instead of eighty-six, the same is altered to eighty-six by consent, in accordance with the facts, before taking deposition of defendant.

CHAS. BEASTEN, *for Complainant.*
W. S. COX, *for Deft.*

15 *Exhibit B to bill.—Filed April* 10, 1871.

Articles of agreement, made and entered into the 30th day of October, A. D. 1865, by and between the Volcanic Oil and Coal Company of the State of West Virginia, party of the first part, and George Jackson, of Parkersburg, county of Wood, and State of West Virginia, party of the second part, witnesseth: That for and in consideration of the covenants, agreements, and reservations hereinafter mentioned, and the sum of five hundred dollars in hand paid to the party of the first part, the receipt whereof is hereby acknowledged, the said party of the first part hereby covenants and agrees to lease to the party of the second part, his heirs, and assigns, for the purpose of mining or boring for oil, all that certain piece or parcel of land situate in Wood County, known as lot No. 36, being a part of the Fox tract, and being situated on Twin-Lick Run, a branch of White Oak Fork of Walker's Creek, commencing at a
16 post on the right-hand bank; descending thence S. 44¾ E. 18 poles to a post; thence N. 43¼ E. 18 poles to a post; thence N. 44¾ W. 18 poles to a post; thence S. 43¾ W. 18 poles to the place of beginning, and containing two acres, more or less; said party of the second part to have the sole and exclusive right to bore and dig for oil on said lot, and gather and collect the same therefrom, for the term of fifteen years from this date, upon the following terms and conditions, to wit: That the said party of the second part shall, within thirty days from signing hereof, deliver on the above demised premises a steam-engine and all necessary fixtures and machinery adequate for the boring of an oil-well, and thereupon immediately commence the work of boring for oil, and the said party of the second part shall not bore more than two wells on said lot hereby leased. And the party of the second part further agrees to keep all wells on said lot constantly tubed or plugged, so as to exclude the water that might injure any other well, excepting when the work of boring is in progress, or when
17 necessity requires the tubing to be drawn; and in this case it shall be restored as soon as possible, and the said party of the second part shall notify the party of the first part, or their agent or superintendant, before the tubing of any well is taken out or restored. The said party of the second part agree to pay and deliver unto the said party of the first part, their successors and assigns, the one-fourth part of all the oil obtained by him, (the said party of the second part,) in any manner from said lot, in casks, barrels, or tanks provided by the party of the first part, to be delivered as the said party of the first part may direct, daily, in such casks, tanks, or barrels, if the well yields twenty barrels or upwards; if under twenty barrels, the delivery to be weekly. The party of the first part reserves sufficient room on the said lot for the erection of tanks for storage of barrels for their share of the oil, with the right of way and free ingress and egress at all times therefrom. And the party
18 of the second part hereby agrees to commence the work within the time specified, and to continue to prosecute the same with due diligence to success or abandonment, (and due diligence shall mean a faithful and constant prosecution of the work and not merely at intervals,) and in case of failure to prosecute the work as aforesaid for a period of sixty days, then this lease and the rights hereby granted shall be null and void, and the party of the first part may resume possession of the premises. And should the party of the second part discontinue the prosecution of the work for sixty consecutive days, then the lease is to be made void and of no further binding effect on the party of the first part, and the party of the second

part shall be duly notified to remove all his fixtures, which must be done within thirty days, failing to do which, the property left shall be held and owned by the party of the first part. The party of the second part further covenants and agrees to keep true and accurate accounts
19 of all the oil obtained in any manner from said lot in a book or books kept apart for that purpose, which book or books, together with the premises and buildings, shall be at all times open to the inspection of the party of the first part, or their agents, and the party of the second part agrees to pay all taxes that may be assessed on said lot during this lease.

It is further agreed that the party of the second part shall have the privilege of cutting fire-wood sufficient for the furnaces of the engine used in boring on said lot, also for the purpose of erecting derrick-frames and buildings; but the party of the first reserves all saw and stave timber upon said lot.

The said party of the second part agree not to sell or otherwise dispose of any portion of said oil until the same has been divided and delivered as aforesaid.

It is further agreed that if the party of the second part shall fail to get oil after going down to the proper depth, (not less than five hundred feet,) and abandon the premises or continue in possession of the
20 same till the expiration of the time for which this lease is given, he shall be at liberty to remove all tools, tubing, and engines which he may have placed thereon; but in no case shall anything else be removed, and not otherwise than above stated; and should the party of the second part discontinue the prosecution of the work for two consecutive months, then this lease is to be made void and of no binding effect on the party of the first part, and the party of the second part shall be duly notified to remove all his fixtures, excepting the buildings, which must be done within thirty days, failing to do which the property shall be held and owned by the party of the first part. Any well or wells dug or bored on said lot shall be left in as good condition as when operated by the party of the second part, the same to be properly plugged in case of abandonment by the said party of the second part.

It is expressly agreed between the parties hereto that the right
21 of way through said lot from any other lots on the tract belonging to the said party of the first part is hereby reserved, and that the party of the second part, their successors, lessee, or assigns, also shall have the right to pass and repass to and from the lot hereby leased; the road or passage to be laid out by the parties of the first part so as to occasion as little inconvenience as practicable to the party of the second part, not inconsistant with the general advantage of the lessee of other lots; and further, that no business other than that connected with the mining for and disposing of oil shall be prosecuted on said lot hereby leased, and also that no well shall be sunk or bored within two rods of the boundary-lines of said lot.

It is further stipulated that the sale on said lots of beer or intoxicating liquors is prohibited, under the penalty of the immediate forfeiture of this lease.

It is moreover expressly agreed by and between the parties
22 hereunto that a failure of the said party of the second part to comply with any of the stipulations, conditions, reservations, or agreements contained in the instrument, which, by its terms, are to be done, kept, and performed by the said party of the second part, shall

work a forfeiture of the rights hereby granted, and the party of the first part may re-enter and repossess themselves of the said demised premises, the same as if this lease had never been made.

The said party of the second part further covenants to pay the costs aforesaid hereby reserved; also to pay the taxes upon said lot hereby demised.

In witness whereof the said Volcanic Oil and Coal Company of the State of West Virginia, party of the first part, have caused these presents to be signed by their president, and their common or corporate seal to be hereunto affixed, the day and year first above written; not binding upon said party of the first part unless countersigned by W.
23 R. Sterling, superintendant of the company, at Parkersburg, West Virginia.

Attest: W. C. STILES, JR., *President.*
[CORPORATE SEAL.] ALEX. L. MASSEY, *Secretary.*

Countersigned this the 2d day of November, 1865.
W. R. STERLING, *Superintendant.*

Witness also the hand and seal of the party of the second part, this the 2d day of November, 1865.
GEORGE JACKSON. [SEAL.]
Sealed and delivered in the presence of us.

STATE OF PENNSYLVANIA,
City & County of Philadelphia, ss:

I, Theodore D. Rand, a commissioner of deeds appointed by the governer of the State of West Virginia for the said State of Pennsylvania, certify that Wm. C. Stiles, jr., president of the Volcanic Oil and Coal Company, whose name is signed to the writing above, bearing date the 30th day of October, 1865, has acknowledged the same before me in my State aforesaid to be the voluntary act and deed of said company
24 for the purpose therein expressed; and the said Wm. C. Stiles, jr., being duly sworn, states that he has executed the above writing and affixed thereto the corporate seal of said company, the day and year aforesaid; the date and the name of W. R. Sterling alone being inserted in said lease, and that said W. R. Sterling is duly authorized as the agent of said company to fill the other blanks in said lease.
W. C. STILES, JR.

Witness my hand and official seal this thirtieth day of October, A. D. 1865.
[COMM'R SEAL.] THEO. D. RAND,
Commissioner of West Virginia in Pennsylvania.

STATE OF WEST VIRGINIA,
Wood County, ss:

I, Henry Amiss, a notary public in and for the county and State aforesaid, do certify that George Jackson, whose name is signed to the
25 foregoing writing, having date on the second day of November, 1865, has acknowledged the same before me in my county aforesaid.

Given under my hand this 2 day of November, 1865.
HENRY AMISS,
Notary Public.

WEST VIRGINIA,
RECORDER'S OFFICE, WOOD COUNTY,
7th Nov., 1865.

The foregoing lease, with an internal revenue-stamp of the denomination of fifty cents hereto adhering, was this day received in said office, and, together with the certificates hereto annexed, admitted to record therein.

Test: G. K. LEONARD, *R. W. C.*

WEST VA.,
WOOD COUNTY, RECORDER'S OFFICE,
July 20, 1870.

I, Edward M. Hoit, recorder of county aforesaid, do certify (I being the duly elected, qualified, and commissioned recorder of said county, having charge of the records of said county, and duly authorized
26 to make this certificate and affix the seal) that the foregoing is a correct copy of a certain oil-lease executed by the Volcanic Oil and Coal Company of West Virginia, through its president, Wm. C. Stiles, jr., as recorded in my office aforesaid, in deed-book number 25, folio 127, &c.

Witness my hand and official seal as such recorder this day and year aforesaid.

[SEAL.] EDW. M. HOIT, *R. W. C.*

Exhibit C to bill.—Filed Apr. 10, 1871.

This deed, made this twentieth day of November, eighteen hundred and sixty-five, by and between George Jackson, of the first part, and J. C. Marbury, W. D. Colt, B. G. Wilson, and Oscar R. Hough, of the second part, witnesseth: That whereas William C. Stiles, president of the "Volcanic Oil and Coal Company of the State of West Virginia," and W. R. Sterling, superintendant of the same, on the thirtieth day of October, eighteen hundred & sixty-five, granted and leased to said
27 George Jackson one and five-eighths acres of land situated in Wood County, State of West Virginia, known as lot thirty-six, and on Twin-Lick Run of White-Oak Fork of Walker's Creek, for the purposes and upon the conditions in said lease specified, which said lease is upon record in the office of the recorder for said county: now, therefore, this deed further witnesseth that said George Jackson does hereby grant and assign to the parties of the second part the said lease, together with all the rights and privileges for mining, &c., that were conferred upon said Jackson; in consideration of which the parties of the second part have paid to said Jackson one thousand dollars, and, upon further consideration whereof, they are to yield and pay over to the said George Jackson one-eighth portion of all the oil realized from said land. And it is further agreed that they are to pay to the Volcanic Oil and Coal Company one-fourth of all the oil realized from said land, and to deliver to each in the manner directed in the original
28 lease. A lien is hereby retained upon said property for the payment of the said one-eighth.

Witness the hands and seals this 25 day of Nov., 1865.

GEO. JACKSON. [SEAL.]
OSCAR R. HOUGH. [SEAL.]
B. G. WILSON. [SEAL.]
J. CARTER MARBURY. [SEAL.]
WM. D. COLT. [SEAL.]

WOOD COUNTY, *to wit:*

I, A. M. Moss, a notary public in and for said county, in the State of West Virginia, do certify that Geo. Jackson and Oscar R. Hough, whose names are signed to the foregoing writing bearing date the 20th day of November, 1865, personally appeared before me, in my county and State aforesaid, and acknowledged the same.

Given under my hand this 25th day of November, 1865.

A. M. MOSS,
Notary Public.

29 WOOD COUNTY, *to wit:*

I, A. M. Moss, a notary public in and for said county, in the State of West Virginia, do certify that B. G. Wilson, whose name is signed to the foregoing writing bearing date the 20th day of November, 1865, personally appeared before me, in my county and State aforesaid, and acknowledged the same.

Given under my hand this 18 day of December, 1865.

A. M. MOSS,
Notary Public.

WASHINGTON COUNTY,
District of Columbia, to wit:

I, J. Dawson James, a notary public, duly appointed and commissioned, residing and acting in said office in Washington County aforesaid, do hereby certify that J. Carter Marbury & Wm. D. Colt, whose names are signed to the foregoing writing bearing date the 20th day of November, A. D. 1865, personally appeared before me, in my
30 county aforesaid, and acknowledged the same to be their act and deed.

In testimony whereof I have hereunto set my hand and affixed my notarial seal this 5th day of January, A. D. 1865.

[SEAL.] J. DAWSON JAMES,
Notary Public.

Assignment.

This indenture, made this 5th day of January, in the year eighteen hundred and sixty-six, by and between William D. Colt, J. Carter Marbury, Oscar R. Hough, and Bernard G. Wilson, of the first part, and John T. Cochran, William Marbury, (physician,) Wm. T. Hough, William N. Lloyd, Charles H. Stern, & Jordan Stabler, of the second part: Whereas George Jackson did, by his instrument of writing bearing date the 20th day of November, A. D. 1865, which is hereto annexed, grant & convey the land and premises therein mentioned and described,
31 upon the terms therein specified and for the purposes mentioned; and whereas the said conveyance was for the benefit of the parties hereto of the first and second parts in the following propositions; and whereas the said parties of the first part are desirous of making proper division between the parties hereto according to the true intent thereof:

Now, therefore, this indenture witnesseth that the said parties hereto of the first part, for and in consideration of the premises and of the sum of three hundred dollars for each sixteen interests conveyed, the receipt whereof is hereby acknowledged, do grant, convey, and assign unto the said parties hereto of the second part the following interest in the said leased premises, to wit: Unto John Cochrane & William T. Hough each, two-sixteenths interests; and unto each of the other parties of the second part one-sixteenth interest, and the said parties of the first part do

hereby interchangeably assign and convey unto them, the said parties of the first part, one to the other, two-sixteenths interests of the said
32 land and premises, upon the terms and conditions and for the purposes as set forth in the original assignment of the said George Jackson. This assignment and conveyance is, however, upon the express reservation and condition that if any additional assessment should be necessary for carrying out the purposes of the original lease, that each party hereto shall pay his pro-rata proportion of said assessment within ten days after the same shall have been levied; otherwise his interests to be forfeited for the benefit of the others: provided, however, that no further assessment shall be made without the assent in writing of a majority of shares.

In testimony whereof the said parties hereto of the first have hereunto set their hands and seals this 5th day of January, A. D. 1866.

J. CARTER MARBURY.
WM. D. COLT.
BERNARD G. WILSON.
OSCAR R. HOUGH.

33 WASHINGTON COUNTY,
District of Columbia, to wit:

I, J. Dawson James, a notary public, duly appointed and commissioned, residing and acting in said county, do hereby certify that Wm. D. Colt and J. Carter Marbury, parties to a certain writing dated the 5th day of January, 1866, and hereto annexed, personally appeared before me, in my county aforesaid, acknowledged the same to be their act and deed.

Given under my hand and notarial seal this 5 day of January, 1866.

[SEAL.] J. DAWSON JAMES,
Notary Public.

WOOD COUNTY, *to wit:*

I, A. M. Moss, a notary public in and for said county, in the State of West Virginia, do certify that Bernard G. Wilson and Oscar R. Hough, whose names are signed to the foregoing writing bearing date
34 the 5th day of January, 1866, personally appeared before me, in my county and State aforesaid, and acknowledged the same.

Given under my hand this 30th day of January 1866.

A. M. MOSS,
Notary Public.

WEST VA.,
RECORDER'S OFFICE, WOOD ,
30th January, 1866.

The foregoing assignment, duly stamped and acknowledged, were this day received in said office and admitted to record therein.

Test:

G. K. LEONARD, *R. W. C.*

WEST VA., WOOD COUNTY,
RECORDER'S OFFICE, *July* 20, 1870.

I, Edward M. Hoit, recorder of county aforesaid, (being duly elected, qualified, and commissioned recorder of said county, having charge of the records of said county, and duly authorized to make this certificate and affix the seal,) do certify that the foregoing copy of assign-
35 ment by George Jackson, and copy of assignment annexed thereto

by Wm. D. Colt et al., are correct. as recorded in the recorder's office of Wood County, deed-book 25, folio 386, &c.

Witness my signature and official seal this day and year aforesaid.

[SEAL.] EDW. M. HOIT, *R. W. C.*

Exhibit D to bill.—Filed Apr. 10, 1871.

This indenture, made this thirteenth day of March, in the year eighteen hundred and sixty-seven, by and between the Twin-Lick Oil Company of West Virginia, of the first part, William Marbury, M. D., of the city of Washington, in the District of Columbia, of the second part, and William Thomas, of Washington City aforesaid, of the third part.

Whereas the said Twin-Lick Oil Company is justly indebted unto the said William Marbury in the full and just sum of two thousand dollars, current money, for which said sum the said company hath
36 made and passed its promissory note, bearing date the fifteenth day of February, in the year eighteen hundred and sixty-seven, and payable ninety days after date to the order of the said William Marbury; and whereas the said company is desirous of securing the full and punctual payment of the said note, with interest thereon, at the time when due, according to the true intent and meaning thereof, it hath agreed to execute this instrument of writing:

Now, therefore, this indenture witnesseth that the said Twin-Lick Oil Company, for and in consideration of the premises, and of the sum of five dollars, current money, to them in hand paid by the said party of the third part at the ensealing and delivery of these presents, the receipts whereof is hereby acknowledged, hath granted, bargained, sold, aliened, enfeoffed, and confirmed, and by these presents doth grant, bargain, sell, alien, enfeoff, assign, and confirm unto the said party of the
37 third part, his heirs and assigns, all of its interest in and to a lease of one and five-eighths acres of land situate in Wood County, State of West Virginia, known as lot thirty-six of the Volcanic Oil and Coal Company's land on Twin-Lick Fork of White Oak Fork of Walker's Creek, as the same was conveyed to J. Carter Marbury, William D. Colt, and others, by George Jackson, by deed dated the twentieth day of November, in the year eighteen hundred and sixty-five, to which said deed and the record thereof, in deed-book No. 25, at folios 386 & 387, of the land-records of Wood County aforesaid, reference is hereby made, together with all the oil-wells now thereon or hereafter to be sunk thereon, and all the tanks of the said company, whether on the said lease or at or near the station at Petroleum, on the line of Parkersburg branch of the Baltimore & Ohio Railroad Company, and all the tools, franchises, oil, tubing, engines, shanties, and all and every the property of the said company, whether now on hand or hereafter purchased or ac-
38 quired, of every sort and description and wheresoever situate, to have and to hold the same to the said party of the third part, his heirs, administrators, and assigns, upon the following uses and trusts, to wit, until default be made by the said company in the payment of the said recited promissory note and the interest thereon, to suffer and permit the said company to have the possession of said granted and described premises, and to take the rents, issues, and profits thereof to its sole use, benefit, and behoof. But if the said Twin-Lick Oil Company shall fail to pay the said recited note in full, when it shall fall due, to the said William Marbury, his heirs, executors, administrators, or assigns, then, upon such default, it shall and may be lawful for the said party of third part, his heirs, executers, administrators, or assigns, upon

the demand of the person or persons holding said note and enti-
39 tled to receive such payment, said demand to be in writing, to offer for sale at public auction, to the highest bidder, the said described property, first giving at least thirty days' notice thereof in such newspapers as shall be designated by said company, and such sale to repeat and postpone as often as may be necessary to accomplish the object of this trust; to get in from the purchaser or purchasers the purchase-money, and, the same being fully paid, to convey the property so sold to the purchaser or purchasers, their heirs or assigns. And the purchase-money being fully paid shall be applied as follows, to wit: First, to pay all the usual and necessary expenses attending the execution of theis trust, including a commission of five per cent. to the trustee for his care and trouble in the premises; second, to pay the said recited promissory note and interest in full; and, lastly, to pay the residue, if any, to the said Twin-Lick Oil Company, its successors or
40 assigns. And the said Twin-Lick Oil Company, for itself and its successors, doth hereby covenant and agree to and with the said party of the third part in manner & following, to wit, that if the said Twin-Lick Oil Company shall and will by these presents warrant and defend the said premises to the said party of the third part, his heirs, administrators, against all persons, liens, and incumbrances whatsoever.

In testimony whereof William D. Colt, president of the said company, hath hereunto signed his name and caused the seal of the said company to be hereto affixed the day and year first before written.

WM. D. COLT,
President T. L. O. C.

Countersigned:
[SEAL.] JORDAN STABLER,
Secretary & Treasurer.

WASHINGTON COUNTY,
District of Columbia, to wit:

41 I, John S. Hollingshead, a commissioner of deeds for West Virginia, do certify that William D. Colt, president of the Twin-Lick Oil Company, of West Virginia, whose name is signed to the foregoing and annexed deed, bearing date the thirteenth day of March, A. D. 1867, personally appeared before me, in my county and District aforesaid, and acknowledged the same to be the act and deed of the said Twin-Lick Oil Company.

In testimony whereof I have affixed my name and commissioner's seal hereto this fifteenth day of March, A. D. 1867.

[SEAL.] JOHN S. HOLLINGSHEAD,
A Commissioner of Deeds, &c., for the State of West Virginia in the District of Columbia.

WEST VIRGINIA,
WOOD COUNTY RECORDER'S OFFICE, *March* 25, 1867.

The foregoing writing, duly stamped and acknowledged, was this day received in said office, and admitted to record therein.

Test:
[SEAL.] EDW. M. HOIT, *R. W. C.*

42 WEST VA.,
WOOD COUNTY RECORDER'S OFFICE, *July* 20, 1870.

I, Edward M. Hoit, recorder of the aforesaid county, duly elected, qualified, and commissioned to act as such, having charge of the records

of said county, and duly authorized to make this certificate and affix the seal, do hereby certify that the foregoing is a correct copy of a certain deed of trust executed by the Twin-Lick Oil Company, through its president, William D. Colt, as recorded in the recorder's office of Wood County aforesaid, deed-book 27, folio 592, &c.

In testimony whereof I do hereunto affix my hand as such recorder this day and year aforesaid, and also my official seal as such recorder.

[SEAL.] EDW. M. HOIT, *R. W. C.*

43 *Exhibit E to bill—Filed Apr.* 10, 1871.

This indenture, made this tenth day of July, in the year eighteen hundred and sixty-seven, by and between William Thomas, trustee of the Twin-Lick Oil Company, of West Virginia, of the first part, Richard E. Colt, of Sandusky, Ohio, of the second part, and William Marbury, M. D., of the city of Washington, in the District of Columbia, of the third part.

Whereas the said Twin-Lick Oil Company, by its deed of indenture, bearing date the thirteenth day of March, in the year 1867, and duly recorded in deed-book No. 27, at folios No. 592, one of the land-records of Wood County, in said State of West Virginia, did grant and convey unto the said William Thomas, his executors, administrators, and assigns, all of its interest in and to a lease of one and five eight's acres of land situated in Wood County, State of West Virginia, known as lot
44 No. thirty-six of the Volcanic Coal & Oil Company's land, on Twin Lick Run, of White Oak Fork of Walker's Creek, as the same was conveyed to J. Carter Marbury, William D. Colt, and others, by George Jackson, by deed dated the 20th day of November, A. D. 1865, together with all the oil-wells now thereon, or hereafter to be sunk thereon, and all the tanks of the said company, whether on the said lease or at or near the station at Petroleum, on the line of the Parkersburg branch of the Baltimore & Ohio Railroad Company, and all the tools, franchises, oil-tubing, engines, shanties, and all and every the property of said company of every sort and description whatever, in trust to secure a certain debt in said trust-deed set forth, described; and whereas the said company hath failed to pay the said debt, and the said William Thomas, in compliance with request of the beneficiary in said deed and the powers confided to him by said deed of trust, did offer the said property for sale to the highest bidder on the 10th day of July, and at such sale the said Richard E. Colt was the highest bidder
45 for and became the purchaser of said property at and for the sum of eleven hundred dollars; and whereas the said Richard E. Colt hath transferred and assigned his said purchase to the said William Marbury, and hath requested the said William Thomas to make a conveyance to the said William Marbury thereof, as is evidenced by the said R. E. Colt, signing and sealing this instrument of writing:

Now, therefore, this indenture witnesseth that the said William Thomas, for and in consideration of the premises and of the sum of eleven hundred dollars, current money, to him in hand paid by the said William Marbury at the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, hath granted, bargained, and assigned, and by these presents doth grant, bargain, and assign, unto the said William Marbury, his executors, administrators, and assigns, all the before mentioned and described property, to have and to hold the same unto the said William Marbury, his executors, administrators, and assigns.

46 In testimony whereof the said William Thomas and Richard E. Colt have hereto set their hands and seals the day and year first above written.

WILLIAM THOMAS. [SEAL.]
RICH'D E. COLT. [SEAL.]

WASHINGTON CITY COUNTY,
District of Columbia:

I, John S. Hollingshead, a commissioner of deeds for the State ot West Virginia in and for said District and county, do hereby certify that William Thomas, whose name is signed to the foregoing and annexed deed, bearing date the tenth day of July, A. D. 1867, personally appeared before me, in my county and District aforesaid, and acknowledged the same to be his act and deed.

In testimony whereof I have hereto set my name and official seal this twenty-ninth day of July, A. D. 1867.

WASHINGTON, DISTRICT OF COLUMBIA.

JOHN S. HOLLINGSHEAD,
A Commissioner for West Virginia in the District of Columbia.

47 WEST VIRGINIA,
WOOD COUNTY RECORDER'S OFFICE, *August* 16, 1867.

The foregoing writing, duly stamped and acknowledged, was this day admitted to record in said office.

Test:

EDW. M. HOIT, *R. W. C.*

WEST VA.,
WOOD COUNTY RECORDER'S OFFICE, *July* 20, 1870.

I, Edward M. Hoit, recorder of the county aforesaid, duly elected, qualified, and commissioned to act as such, having charge of the records of said county, and duly authorized to make this certificate and affix the seal, do certify that the foregoing is a correct copy of a certain conveyance from William Thomas, trustee, to William Marbury, as recorded in the recorder's office aforesaid, deed-book 28, folio 185.

In testimony whereof I do hereto affix my signature, and also my official seal as such recorder, this day and year aforesaid.

[SEAL.] EDW. M. HOIT, *R. W. C.*

48 In the supreme court of the District of Columbia, April 10th, 1871.

THE TWIN-LICK OIL COMPANY, OF WEST VIRGINIA, complainant, *against* WILLIAM MARBURY ET AL., DEFENDANT. — No. 2345. Equity docket 11.

The President of the United States to William Marbury, defendant:

You are hereby commanded to appear in this court at its first special term, occurring twenty days after service of this subpœna, and answer the exigency of the bill, under pain of attachment and such other process of contempt as the court shall award.

Witness: D. K. Cartter, chief-justice.

[SEAL.]

R. J. MEIGS, *Clerk*,
By L. P. WILLIAMS, *Asst. Clerk.*

MEMORANDUM.—That the defendant is to enter his appearance in this suit in the clerk's office on or before the special term to which this writ is returnable; otherwise, the bill may be taken for confessed.

Marshal's return.

Summoned both. April 12th, 1871.

A. SHARP, *Marshal.*

49 *Appearance of defendant.—Filed 2 May,* 1871.

In the supreme court of the Dist. of Columbia.

TWIN-LICK OIL CO., OF W. VA., *vs.* WM. MARBURY. } 2345. Eq.

Enter our appearance for defendant.

DAVIDGE & COX.

Answer of defendant.—Filed July 18, 1871.

THE TWIN-LICK OIL CO., OF WEST VA., *vs.* WM. MARBURY. } 2345. Eq.

This defendant, saving and reserving all exception to the manifold errors and imperfections in the bill contained, for answer thereunto, or to so much thereof as he is advised it is necessary or material to make answer, answering says:

1. He denies that at the bringing of this suit the complainant was a body-politic, and avers that the deed of trust in the bill men-
50 tioned embraced as well the franchises of the corporation then existing as well as all its works and property, and that the purchase by this defendant under said deed and the conveyance to him pursuant to said purchase operated by the law of West Virginia the dissolution of said corporation; and he further avers that the complainant suspended operations as a corporation for more than two years after the said purchase, which suspension as this defendant avers operated under the provisions of the law of West Virginia the dissolution of said corporation, and this defendant prays the same advantage from this answer as if he had specially pleaded said want of corporate existance and capacity to sue.

2. This defendant at the filing of the bill was, and still is, a citizen and resident of the State of West Virginia.

3. He admits the allegations contained in the 3d paragraph of the bill.

51 4. He admits the allegations contained in the 4th paragraph of the bill.

5. He admits that for some time previous to the first day of February, 1867, the board of directors of said corporation consisted of the parties alleged in the bill. This defendant had been elected a director about a month before said day, prior to which he held no official relation to the corporation. He further admits the passage by the board of directors on or about said day of a resolution in substance similar to that alleged, but he does not know nor admit that the alleged resolution

is a true copy of the resolution as passed. He denies that only the alleged members of said board were present. On the contrary, Jordan Stabler, one of said board, was also present.

6. It is untrue that this defendant, upon the passage of said resolution or at any time, undertook to collect or aid in collecting the said assessments. This defendant believes and admits some of said assess-
52 ments never have been paid, and others were paid between the periods alleged, but with the collection of such assessments this defendant had no connexion, the same devolving on Jordan Stabler who filled the offices of treasurer and secretary. This defendant acceded to the request in said resolution to endeavor to borrow $2,000 upon mortgages of the property of the corporation and pledge of its stock, and used his best efforts to negotiate a loan, but failed, and duly reported such failure to the board of directors.

7. It is wholly untrue that this defendant volunteered to make the alleged loan of $2,000. He was applied to by his brother, J. Carter Marbury, to make such loan, but positively refused. Said J. Carter Marbury, in making such application, acted, as defendant is informed and believes, at the instance of William D. Colt and Jordan Stabler. Subsequently this defendant reluctantly consented, and solely in
53 consequence of the embarrassed state of the affairs of the corporation, and upon condition that he should first be satisfied by visiting the property of the company that it afforded adequate security, and that the expense of such visit should be paid by the company. Defendant avers that having made said visit, and deeming the property, from the representations made by the superintendant of the property, which representations subsequently proved to be unfounded, adequate to secure him against loss, he made the advance desired, and received the note alleged, and to secure the same the alleged deed of trust, whereof a copy is filed with the bill, marked "Exhibit D."

8. It is untrue that this defendant, after the 13th of March, 1867, and before the 10th of July, or at any time, became the secretary and treasurer of said company, or assumed the duties of said office, or held the same until the 20th of July, 1867, when he resigned, or that he held said office of secretary or treasurer at any time. If ever elected or
54 appointed to fill said office, it was without his knowledge or consent. It is also untrue that he was continuously a director of said company from some time prior to February, 1867, to some time subsequent to June, 1870.

9. It is true that said note of the company fell due at the time alleged. This defendant thereupon waited one month for payment. During that time he applied for payment to said William D. Colt, the president of the company, and was informed that the company had no money, and did not expect to have any, and that this defendant's best course to save himself was to order a sale under said deed of trust. Before said note matured this defendant had been informed that the money advanced by this defendant, as well as the assessments collected, had been spent, and that the company was as much embarrassed as when this defendant came to its relief, and, further, that the property was depreciating for want of proper attention. Satisfied that the only chance of ob-
55 taining payment for the loan was by a sale, this defendant ordered the trustee to proceed to sell in conformity with the deed of trust. It is utterly false that this defendant controlled and regulated said sale, as alleged, or in any respect, or that said sale was conducted in conformity with the directions or wishes of this defendant. He admits his presence at the sale, and avers he was there solely to protect his inter-

est, and arrived at the property from his home in this District only about an hour before the sale.

10. This defendant admits that at said sale Richard E. Colt was requested by this defendant to purchase, and did purchase in his behalf, the property sold, and that a deed of assignment and conveyance, whereof Exhibit E is a true copy, was subsequently executed in his favor by said Colt and the trustee. This defendant denies that there was any further employment of said Colt, save so far as a request may
56 be regarded as such. It is further denied that said purchase by means of said Colt, the father of the president of the company, was a contrivance, or designed, to cover up or conceal the fact that this defendant intended to purchase at said sale. And this defendant further avers that his intention to buy, if necessary for his protection, was well known to all of said directors, and to all or most of the stockholders of said company, and acquiesced in by them.

11. It is false that this defendant, by means of said offices of director secretary, and treasurer, or either of them, had become acquainted with the business of said company, and the value of its property, and thus possessed peculiar means for taking advantage of its necessities, or that he took such advantage. On the contrary, the embarrassed and bankrupt condition of the company was generally known, and accessible to any one who chose to make inquiry, and in respect of said prop-
57 erty, the only knowledge of this defendant as to its value was derived from the visit aforesaid, made to ascertain whether this defendant would be safe in advancing money to aid said company. It is further false that this defendant forced a sale at a time favorable for his own purposes, or forced a sale at all, or had any advantage over the other bidders in knowing facts which were not equally open to them, and to the averments contained in this paragraph of the bill this defendant prays the same advantage from this answer as if he had specially demurred for want of certainty.

12 & 13. It is further false that the alleged fact of "Warner well," being upon the land described in the deed of trust was concealed from the bidders at said sale, or that said Warner well was yielding large quantities of oil, or was worth many times the price for which the property was sold, or that had said fact been made known said property would have realized from $5,000 to $15,000, or that this defend-
58 ant had notice or knew or believed or suspected, or had reason to know, believe or suspect, that said Warner well was on the said property, or that, being an officer of the company, it was his duty to have examined into the fact of the locality of said Warner well, or that said fact was susceptible of easy and immediate proof. It is further false that this defendant has received the rents, issues, and profits of said Warner well since the 10th of July, 1867, amounting to not less than $50,000. And to the contrary to the allegations in the 12th and 13th paragraphs of the bill and in the explanation thereof, this defendant avers that when he purchased the said property he bought according to the ostensible metes and bounds thereof and in good faith, and was wholly ignorant of any outstanding claim to the property; that after his said purchase and in August, 1868, he first knew or heard or suspected of any outstanding title; that at said time this de-
59 fendant was told by his agent that the Warner well was upon the property, but that a well supposed to be upon the property, and the only productive well, had been thrown out by a recent survey; that thereupon, and not before this defendant made claim to said Warner well, deeming himself entitled thereto, as hereinafter explained, but

that said well did not pass into the possession of this defendant until May, 1870, since which time he admits he has received the rents, issues, and profits thereof, which this defendant avers have been of moderate value; that said Warner well at the time of the purchase by this defendant was worth from $1,500 to $2,000, and that by the change of the lines this defendant lost the well thrown out as above mentioned, and that beyond is to be ascertained by future developments. And defendant says he bought under said deed of trust from the trustee of the complainant in good faith and for a valuable consideration, and
60 excepts to any objection to said sale founded on facts occurring since the consummation thereof.

14. It is false that before or after said sale this defendant represented to stockholders or others interested that he was about to purchase, or had purchased, the said property for the benefit of all or certain of the stockholders, or that, in his intercourse with the stockholders, he did not claim to have purchased for himself, or used equivocal language, or made representations which tended to prevent stockholders from inquiring into the circumstances attending the sale, or from taking prompt measures to protect their interests. This defendant admits that when he made said purchase his purpose was to secure, if practicable, the debt due him, and that after said purchase he offered to sundry stockholders to relinquish the same, upon payment of said debt within sixty days; or, if they preferred, to allow them, within said time, to
61 participate in said purchase upon the basis of said debt, parties coming in to contribute to said debt in proportion to the interest obtained, and to contribute rateably to the expenses incurred by this defendant, but that said stockholders failed and refused to accede to either of said propositions, and left this defendant to do what he could with said purchase, and in all respects recognized and acquiesced in his title thereto, and knowingly allowed him, under the belief that said title was unquestioned and unquestionable, to possess and to operate said property as his own, and to expend thereon large sums of money, so that in August, 1869, his disbursements over all receipts from the property exceeded $3,500, and to abandon his residence and valuable practice as a physician in said city of Washington, and thereby to devote his whole time and attention to the development of the property. And this defendant further says that the price bid by him for the
62 property was a full and adequate consideration, and that at the date of purchase the property was incumbered by a debt due to the Volcanic Oil Company for royalty amounting to four hundred barrels of oil, which debt was commuted for $1,000 in money, and paid off by this defendant after he took possession. And defendant further says that it was not until in August, 1869, that said purchase proved at all desirable, and then only by the accidental discovery by this defendant of light oil, found by reboring a well which had been abandoned as worthless by the company, and to which no value was attached at the time of said purchase; nor was it until after said discovery that any claim was made or intimated by said company or stockholders, or any of them, in opposition to the title of this defendant. And this defendant charges that the claim now set up by the bill is the result of
63 said discovery, and that the same is fraudulent and without foundation in equity or justice, and moreover is stale, and not entitled to the countenance or support of a court of equity.

15. This defendant admits the allegations of the 15th paragraph of the bill.

And having fully answered, he prays to be hence dismissed with his costs, &c., and as in duty, &c., &c.

WM. MARBURY.

WALTER S. COX,
W. D. DAVIDGE,
Sol'rs for Deft.

DISTRICT OF COLUMBIA, *ss:*

I do solemnly swear that I have read the foregoing answer by me subscribed, and know the contents thereof, and that the facts therein stated upon my personal knowledge are true, and that the facts therein stated upon information and belief I believe to be true.

WM. MARBURY.

Subscribed and sworn to before me this day of July, 1871.

R. J. MEIGS, *Clk*,
By R. J. MEIGS, JR., *Asst. Clk.*

64 *Complainant's testimony.*

In the supreme court of the District of Columbia, the 9th day of March, 1872.

TWIN-LICK OIL CO. *v.* WILLIAM MARBURY. } No. 2345. Equity docket 11.

The President of the United States, to E. B. Sadler and J. M. Root, Sandusky, Ohio, greeting:

Know ye, that in confidence of your prudence and fidelity, you have been appointed, and by these presents you, or any two of you, are invested with power and authority to examine Richard E. Colt, as a witness for the complainant in the above-entitled cause, upon the interrogatories annexed to this commission; and, therefore, you are hereby commanded, at a certain day and place, or certain days and places, to be appointed by you, to cause said witness to come before you,
65 and then and there examine him, on oath or affirmation, upon the said interrogatories, and reduce his testimony into writing, to be signed by said witness; and, having so done, annex the same to this writ, closed up under your seals, and make return thereof into said court with all convenient speed.

Witness D. K. Cartter, Chief-Justice.

[SEAL.]

R. J. MEIGS, *Clerk*,
By L. P. WILLIAMS, *Asst. Clerk.*

The execution of this commission appears in a certain schedule hereunto annexed. Hon. J. M. Root, being unwell, declined to act as commissioner, and I executed the commission myself.

E. B. SADLER, *Comr.*

66 In the supreme court of the District of Columbia. In equity.

THE TWIN-LICK OIL CO., COMPL'T, *vs.* WILLIAM MARBURY, DEF'T. } No. 2345. Eq. doc. 11.

Interrogatories to be proposed to Richard E. Colt, a witness for the complainant.

1. Are you acquainted with the defendant in this suit? If yea, how long have you known him, and where?

2. Were you present on the 10th of July, 1867, at a sale of a certain oil

property belonging to the complainant in West Virginia? If yea, who else and how many were present on that occasion, naming all the persons you know?

3. Did you purchase the said property at said sale? If yea, at whose instance? and if at the instance of the defendant, or in consequence of representations made by him, state all that the said defendant said to you in regard to the said purchase.

67 4. Did you afterwards transfer or assign to the defendant your said purchase? If yea, was it for any purpose, upon any trust, or upon any condition in which the complainant was interested?

5. Upon the occasion of said transfer, or at any other time, did the defendant inform you of any understanding or agreement whatever between himself and the members of the complainant company as to his acquiring the property for any purpose in which they were interested, or for any purpose intended to benefit the company or any of its members?

6. State proceedings at the said sale generally, and also especially all that was said or done by the defendant, the trustee, and the auctioneer who made the sale, in regard to said sale.

7. What means, if any, were taken either by the trustee or by the defendant to point out the property which was sold? What, if

68 anything, was said as to the extent and value of the property, and the productiveness and number of the wells upon it?

8. Was any notice given by you, or by any one to your knowledge, to the persons, or any of them, present at the sale, or was it in any way known to them or any of them that you were bidding for any member or members of the company? If yea, state what notice was given, by whom, and to whom, and in what way it was given, or in what other way the fact became known to the persons present or any of them?

JNO. D. McPHERSON,
For Compl't.

TWIN-LICK OIL COMPANY
vs.
WM. MARBURY.

Cross-interrogatories.

1. Had you any interest in the sale of the property of the Twin-Lick Oil Company, or in purchasing it?

69 2. Did you represent any person except the defendant, Dr. Wm. Marbury, in making the purchase?

3. Had you any interest in having it bought or held by Dr. Marbury in trust for any one else?

4. Did you not understand distinctly that said defendant was purchasing the property for his own account, and not as agent or trustee for any one else?

5. Did you not, after the sale, always consider Dr. Marbury the sole owner of the property?

6. Did you not state to Col. B. S. Compton, in January or February, 1868, in the office of the Tubing Company, at Petroleum, that the property of the Twin-Lick Company had been sold according to law, and that company had no longer any interest in it, and that the purchaser at that sale was now absolute owner of it, and he would have to see him on the subject of the ground-rent charged against the Tubing Company.

7. Did you not, immediately after the sale, inform Mr. Seymour

70 Woodward, at Petroleum, that you had bought the property in for Dr. Marbury, and that Dr. Marbury was going to run it on his own account?

Commissioners' names: Hon. E. B. Sadler, Wm. E. Lane, George Reber, and W. F. Coggswell.

DAVIDGE & COX,
For Defendant.

It is agreed that the defendant in person, without counsel, may orally cross-examine the witness for compl't, if he shall deem it expedient, and that the commissioner shall issue to E. B. Sadler and , with power to either to act.

JNO. D. McPHERSON,
For Compl't.

Deposition of Richard E. Colt, for compl't.

Deposition of witness produced and sworn and examined on the 15th day of March, in the year of our Lord one thousand eight hun-
71 dred and seventy-two, in the city of Sandusky, Erie County, Ohio, at the office of the undersigned commissioner, by virtue of a commission issuing from the supreme court of the District of Columbia, to E. B. Sadler and J. M. Root, directed for the examination of Richard E. Colt, a witness in a certain cause depending in said court, wherein Twin-Lick Oil Co. is plaintiff, and Wm. Marbury is defendant.

The said RICHARD E. COLT, having been first by me duly sworn to testify the truth, the whole truth, and nothing but the truth, in the above-entitled case, in answer to the 1st interrogatory says:

1st. I am acquainted with Dr. Marbury, the defendant. I have no intimate acquaintance with him, but I saw him occasionally in 1867 at Parkersburg, in West Virginia.

2d. To the second interrogatory he says: I was present at the time of the sale of certain oil property in 1867, at West Virginia, but think it was as early as the 7th of July. The sale was made at the
72 premises sold. According to my recollection, Dr. Marbury and his brother, J. Carter Marbury, Mr. Geo. Jackson, and a man by the name of Allen, were also present, and the person who acted as auctioneer, who I supposed was sheriff or constable. These were all that I remember.

3d. To the 3d interrogatory he says: I bid off the property at that sale. There were no other bids that I recollect. I bid it off at the instance of Dr. Marbury. I was staying at Petroleum, about three and a half miles from this property. I had seen an advertisement for the sale of this property. Dr. Marbury and his brother came to me before the sale and Dr. Marbury had a talk with me about bidding off the property. This was the evening before the sale. According to my recollection from the notice of sale, the sale, as I understood, was to be made to pay certain indebtedness of the company, for the amount due on a second engine and oil-tank. It was to be sold on an execution, if I recollect aright.
73 When I say second engine, I mean the one at the second well, the first having been paid for. I asked the Dr. why he did not pay up the indebtedness and go on with the business, and not have the property sold? His reply was, that he proposed to take this course, which would compel certain parties to pay up who had not paid or forfeit their interest in the property. He spoke of a man by the name of Ben. Wilson particularly as not having paid, and one other, whose name I do not recol-

lect. But the balance of the company would remain as before, they re-imbursing the Dr. for the amount bid on the sale. The Dr. wished me to bid off the property in my name, and assign it to him for the benefit of the company. I supposed the Dr. was taking it for the benefit of the company, the main object being to compel delinquents to pay up or forfeit their interest. As I understood him, he proposed to
74 re-organize the company so as to get rid of delinquents. I knew Dr. Marbury was a director of the company, and I supposed he was acting as its agent. I do not definately recollect anything further that was said at that time.

4th. To the 4th interrogatory he says: I did afterwards transfer or assign my purchase to Dr. Marbury, the same day I purchased, and before leaving the premises, in pursuance to a previous understanding that I should do so. I simply bid off the property at the request of Dr. Marbury, supposing him to be acting for the company, and then transferred to him accordingly. I wish to add here that I was the only bidder, and I bid the full amount of the claim or execution on which it was sold, which, I think, was about $400—perhaps a little more, not much exceeding that sum.

5th. To the 5th interrogatory he says: The Dr. gave no intimations to me, that I remember, that there was any arrangement that he
75 should buy in the property made between him and the other members of the company.

6th. To the 6th interrogatory he says: The officer making the public sale offered the premises; I bid on them; they were struck off to me; there was no other bidders. I don't remember anything in particular that was said at the sale. Immediately after the sale I transferred the bid or property to Dr. Marbury by a written assignment. I paid no money, and none was demanded of me.

7th. To the 7th interrogatory he says: I do not remember as any means were taken to point out the property. We were on the property at the time of the sale. The notice of the sale of the property, I think, was read. This, I believe, contained a general description of the property. I do not remember as anything was said as to extent or value of the property. I understood the extent and nature of the property
76 sold. There were two wells and two engines on the property, and a number of tanks, &c.

8th. To the 8th interrogatory he says: I gave no notice to any one that I was bidding for any member of the company. No other one gave any such notice as I know of. Nothing said about it at the sale as I remember. I presume the Dr.'s brother knew for whom I was bidding. I inferred Mr. Jackson, who was superintendant of the company, also knew. But I do not remember as anything was said about it at the sale.

Cross-examination:

1st. To the 1st cross-interrogatory the witness says: I had no interest at all in the Twin-Lick Oil Co., or in the property purchased.

2d. To the 2d cross-interrogatory he says: No one requested me to bid off the property, except Dr. Marbury; and he I supposed represented the company.

3d. To the 3d cross-interrogatory he says: I had no interest in
77 it myself, but my son had an interest in the company.

4th. To the 4th cross-interrogatory he says: I did not so understand it.

5th. To the 5th cross-interrogatory he says: I was only there a few days after the sale, and thought and heard nothing about it for a long time

afterwards. I knew afterwards the *the* Dr. was in the possession. I did not know of his getting any other title than that acquired at the sale. I did not at any time consider the Dr. the sole absolute owner of the property.

6th. To the 6th cross-interrogatory he says: I never had any conversation with Col. B. S. Compton referred to in interrogatory. I have not been at Petroleum since July, 1867. I know nothing about the ground rent referred to.

7th. To the 7th cross-interrogatory he says: That I have no recollection of having any conversation on the subject with Seymour Woodward at all, one way or the other.

78 Questions propounded by the defendant in person and answers thereto:

1st. What is your age?

Ans. I am sixty-nine next Sept.

2d ques. Are you the father of Wm. D. Colt?

Ans. I suppose so.

3d ques. Did not Dr. Marbury give you to understand before the sale that it was simply his intention to invite certain members of the old co. to participate with him as a new co. in working the wells?

Ans. I can't say he did that distinctly, but he did say something about re-organizing the co., under some new arrangement.

4th. Did not Dr. Marbury, before the sale, consult you as to how high you should bid for him, with the hope that your son and others of the co. might participate with him in the working of the property?

Ans. I do not remember.

5th. Did not Dr. Marbury agree to pay as much as $2,500, in case the property should bring that amount at the sale?

79 Ans. Not that I recollect of. They may have been some such understanding, but I cannot now recollect anything about it.

6th. Were not Mr. R. L. Lager, Mr. Freeburn, and Wm. Thomas present at the sale, in addition to those mentioned by you?

Ans. I am confident neither of them was present.

7th. Did not Mr. Freeburn make the first bid of $500?

Ans. I have no recollection that Freeburn was there at the sale at all.

9th. Did not Mr. Thomas and myself arrive at Petroleum from Washington, the evening before the sale?

Ans. My impression is you came up from Parkersburg and not from Washington.

10th. On the morning of the sale did you not find J. Carter Marbury at the wells?

Ans. I can only say he was there at the sale.

11th. Did you not suppose that if the other members of the co.

80 whom I might invite to participate with me in the work by organizing a new co., should not accept such offer, that I would carry it on alone?

Ans. I did not come to any conclusion or think anything about it, that as I know of.

Ques. No. 12. Were not oil property and machinery very much depreciated at the time of the sale; and the prospect of any improvement very poor?

Ans. Property had depressed in value very much; price of oil was low, and the production diminished at that place.

And further the deponent saith not.

RICHD. E. COLT.

The execution of this commission is found in the above testimony. Hon. J. M. Root being unwell, declined to serve as one of the commissioners, and the commission was executed by myself alone.

E. B. SADLER, *Comr.*

81 In the supreme court of the District of Columbia.

TWIN-LICK OIL CO. *vs.* WILLIAM MARBURY. } In equity. No. 2345. Doc. 11.

[Filed Dec. 9, 1872.]

DISTRICT OF COLUMBIA,
County of Washington, ss :

Be it remembered that, at an examination of witnesses, begun and held on the 16th day of October, A. D. 1871, and continued from time to time by adjournment until the 17th day of January, A. D. 1872, when the within depositions were taken, I, Edward C. Ingersoll, an examiner in chancery, did cause to be personally present at the office of Walter S. Cox, esq., in the city of Washington, in said District, the within-named witnesses, to testify on the part and behalf of the complainant in a certain cause now depending in the supreme court of the District of Columbia, wherein the Twin-Lick Oil Co. is complainant, and William Marbury is defendant.

82 *Testimony of Jordan Stabler, for complt.*

In the supreme court of the District of Columbia.

THE TWIN-LICK OIL COMPANY, OF WEST Virginia, complainants, *vs.* WILLIAM MARBURY, DEFENDANT. } Eq. No. 2345. Testimony for complainant.

MONDAY, *October 16th*, 1871.

By agreement of counsel met to take testimony in this cause—present, Mr. McPherson, for compl't, and Messrs. Davidge and Cox, for defendant—whereupon Jordan Stabler, residing in city of Baltimore, State of Maryland, aged 31 years, a witness produced and examined on the part and behalf of the complainant, first solemnly affirming that he would depose the truth touching the matters at issue, deposed as follows, viz :

Q. Were you interested in the Twin-Lick Oil Company of West Virginia? And if so, state when and how you became interested therein.

Ans. I bought an interest when the company was organized,
83 in 1866, some time in the early part of the year, I don't exactly recollect the date. Our meeting to organize was held in July, 1866. We held a meeting then in Parkersburg, West Va., and organized.

Q. Did you hold any office under said company ; and if so, what office have you held?

Ans. I was elected secretary, treasurer, and a member of the board of directors, at that meeting in Parkersburg. I have held the office of president since about the first of this year. I ceased to be treasurer and secretary in June, 1867.

Q. Who succeeded you as secretary and treasurer, and how long did your successor hold the office?

(The counsel of the deft. object to the introduction as parol evidence to show who were officers at different times of the company. The proceedings of the company are the primary evidence.)

Ans. Dr. William Marbury succeeded me as secretary and treasurer, and held the office about a month or more.

84 Q. Did you receive a letter from him, announcing his resignation? If so, you will please produce it.

Ans. I did, and now produce it. (The same is here filed and marked "Exhibit J. S., No. 1.")

Q. Who succeeded Dr. Marbury as secretary & treasurer?

(Counsel for deft. renews objection.)

Ans. Oscar R. Hough.

Q. Were you present at a meeting of the board of directors, held in or about the 1st day of February, 1867, at which a loan of $2,000.00 was authorized upon a mortgage of the property of the company?

(Objected to by counsel for the deft. The proceedings of the meeting ought to show.)

Ans. I was not present, to the best of my recollection.

Q. Did you receive the proceedings of that meeting from any one who acted as secretary thereof?

(Objected to. The declarations of a party acting or professing
85 to have acted as secretary are inadmissible. The proceedings ought to show what business was transacted.)

Ans. I received the proceedings of that meeting, and entered them in the regular book of minutes.

Q. Where is that book of minutes?

Ans. I sent that book of minutes either to Dr. Marbury or Oscar R. Hough, subsequent to July 1st, 1867, within some months subsequent, and I have never seen the book since.

Q. Did you receive any letters from Dr. Marbury, after the 13th of March, 1867, and before the 1st of August, 1867? If so, please produce them.

Ans. I did, and now produce them.

(The same are herewith filed, and marked "Exhibits J. S., Nos. 2, 3, & 4," respectively.)

Q. Are you acquainted with the handwriting of the deft.?

Ans. I am.

Q. You will look at the letters now shown you and say whether they are in his handwriting.

86 Ans. They are in his handwriting. (The same are herewith filed and marked "Exhibits J. S., Nos. 5 & 6," respectively.)

Q. Did the defendant, after the 10th day of July, 1867, offer to you to relinquish the purchase upon payment of the debt within 60 days; or, if you preferred, to allow you within that time to participate in said purchase upon the basis of said debt?

(Objected to as leading.)

Ans. I have no recollection of any such offer.

Q. Can you say whether he did or did not make such offer, or any offer similar thereto, after the 10th of July, to you?

Ans. He never did.

Q. While you were secretary and treasurer, who attended to the business of the company at the well?

Ans. Oscar R. Hough was at one time superintendant, as was also Charles H. Slicer, after Hough. George W. Allen was working the

well at one time after Slicer. Richard E. Colt was also superintendant at one time.

87 Q. Did you receive any letters from said Allen reporting upon the condition of well from the 13th of March, 1867, up to the 4th of August, 1867, and the work thereat? If so, produce them, and annex them to your deposition.

(Objected to because the declarations of Allen are not admissible against the deft.; and because, further, the reports of Allen are not admissible for any purpose, unless it be first shown that when they were made he was acting as superintendant, and that the reports were made in the course of his employment and duty.)

Ans. I did, and now produce them. (The same are herewith filed, and marked "Exhibits J. S., Nos. 7, 8, 9, 10, 11, & 12," respectively.)

(The introduction of these letters is objected for the above reasons.)

Q. Did George Jackson hold any office under your company in June, 1867, and thereafter? If so, what office, and how long did he hold it?

88 Ans. He did. He was superintendent in June, and for months afterwards.

Q. Did you receive any letters while he was superintendant from him? If so, produce them.

(Objected to because the letters are inadmissable against the deft.)

Ans. I did; and now produce them. (The same are herewith filed and marked "Exhibits Nos. 13 & 14," respectively.)

(Objection renewed to ans. of witness.)

Q. From what source was money procured to carry on the business of the company in West Virginia?

Ans. From assessments and the proceeds of the sales of the oil pumped. For the time being I advanced money loaned me by the parties to whom I had sold oil. These loans were upon my individual responsibility.

Q. To what amount were you in advance of the company, as above stated, at any one time and when, and have your advances been paid?

(Objected to as irrelevant.)

89 Ans. There was $1,350.00 advanced by one firm in the fall of 1866, and $1,800.00 advanced by another firm in the spring of 1867. Some of this money was advanced several months before the oil was furnished, and I was held personally responsible. The money was loaned to me for the use of the company, for which I was held responsible. This was expressly understood by the parties loaning. This was the money advanced to me and which I advanced to the company. There was not oil enough sent to one of these parties to close the account, and I paid between $50.00 and $60.00 to one of these firms out of my own pocket to close the contract, for which I have received no return.

Adjourned by agreement of counsel to Tuesday, Oct. 17th, 1871, at 2 o'clock p. m.

EDWARD C. INGERSOLL,
Examiner in Chancery.

TUESDAY, *October 17th*, 1871.—Met pursuant to adjournment.

90 Present, Mr. Beasten, for complainant, and Mr. Cox, for defendant.

Examination of last witness (Stabler) resumed as follows:

Q. Did you receive these letters (here handed to witness) from Dr. Marbury?

Ans. I did; (the letters are here filed and marked "Exhibit J. S., Nos. 15 & 15½, E. C. I., Examiner;") it is in Dr. Marbury's handwriting. George Jackson was superintendent in the month of June, 1867. He was made superintendent at the recommendation and advice of Dr. Marbury. I hold in my hand a press-copy of a letter written by me to George Jackson, (the same is here filed and marked "Exhibit J. S., No. 16.") Daniel Harris had sole charge of well No. 2. He undertook the whole management of this well for a time. At the time he so had charge I received the following letters:

(Counsel here objects to the introduction of these letters for the reasons stated above.)

(The letters are herewith filed and marked "Exhibits J. S., Nos. 17 & 18," respectively.—INGERSOLL, *Examiner*.)

91 Q. Have you, as president of the company, ever made search for the minutes, or have you ever caused Hough, who was secretary of the company, to make search for the minutes?

A. I have made thorough search myself, and have repeatedly requested Hough to make a thorough search and if possible to produce the minutes. They could not be found anywhere by all my exertions. To the best of my knowledge and belief they have been lost by carelessness. I have a copy of several of the minutes. I now produce such copies; they were written by myself from the original minutes in the back part of the ledger of the company; they are true copies. That are all the copies that I know of or believe to be in existance from any knowledge that I have. (The copies are here filed and marked "Exhibits J. S., Nos. 19 & 20," respectively.)

(Counsel for deft. objects in time to the minutes of Feb'y 1st, 1867, as hearsay evidence.—INGERSOLL, *Examiner*.)

92 Cross-examination by Mr. Cox:

My present interest in the Twin-Lick Company is one-sixteenth, ($\frac{1}{16}$,) subject to a royalty. I was one of the parties who employed counsel to bring this suit. I suppose I must have furnished some of the information for counsel upon which this bill was framed. I was elected secretary and treasurer only once that I recollect of. As secretary and treasurer I kept a ledger and book of minutes, bank-book, and check-book. I sent these books either to Dr. Marbury or Oscar R. Hough some time between July and December, 1867. I continued to be secretary and treasurer until between the 15th and 30th of June, 1867. I am not positive about it. There would be a record of Dr. Marbury's election if the minutes were in existance. I am of the opinion that I nominated Dr. Marbury as secretary and treasurer at a meeting of the directors.

Q. Can you swear positively that there was any record of his election?

93 A. I cannot swear positively that there was any election, for the reason that I cannot depend on my memory after such a lapse of time, as it is not clear in my mind.

Q. Have you any personal knowledge that Dr. Marbury was ever notified of his election?

Ans. I do not recollect now whether I notified him or not.

Q. Have you any knowledge other than that furnished by his letter of July 22d, offered in evidence, that he knew of his election?

Ans. I can't say that I know now that he knew it at the time.

Q. Did he ever act as secretary and treasurer, and how?

Ans. I don't recollect of being at any of the meetings after his elec-

tion, therefore I cannot say from my personal knowledge what his actions were.

Q. Were you not secretary and treasurer in July, August, and September, 1867, or acting sec'y and treasurer during that time?

Ans. I was not either actual or acting.

94 Q. Did you not make a final and complete report or statement as secretary and treasurer on the affairs of the company and to the company in September, 1867?

Ans. I never made any final report. I don't recollect of making any report that month. I may have made some statement in reply to an inquiry from some of the company.

(Counsel for deft. notify the complainant's counsel to produce any statement or report made by Mr. Stabler to the company in September, 1867.—INGERSOLL, *Examiner.*)

Q. Please state how many meetings of stockholders or directors were held after September, 1867, and at what times and where?

Ans. I don't recollect any meetings that were held that I was present at until about the first of this year.

Q. Who was secretary and treasurer after September, 1867.

Ans. Oscar R. Hough was secretary and treasurer after about that time.

Q. What duties did he have to discharge that you know of?

95 Ans. The duties of notifying the stockholders of meetings and the other duties of the secretary of stock-companies.

Q. Do you know personally that he actually did discharge such duties, and to what extend, if any?

Ans. He notified me of a meeting of stockholders in the latter part of 1870 or early in 1871. This is all I can call to mind at this moment.

Q. What was the financial condition of the company in February, 1867?

Ans. We were in want of money.

Q. Did you not report that there was no money in the treasury before the loan from Dr. Marbury?

Ans. I think it very likely.

Q. Did you not, a few weeks after the loan was made, report the treasury to be in the same condition as before?

Ans. My recollection is not certain.

Q. Did you not think that Dr. Marbury would loose his money when he made that loan?

96 Ans. My confidence was very much shaken in oil business at the time, and I may have told him that I considered it risky.

Q. Did not some of the directors, as an inducement to him to make the loan, offer to become personally responsible for it, and did you not decline to do so, because you had lost all faith in the enterprise?

Ans. I think some of the directors did offer to become personally responsible, but whether I refused or not I cannot say.

Q. Did you not consider the company bankrupt in the summer of 1867, and so express yourself?

Ans. Under the bad management I thought there was very little prospect of making money then, at that time, without help from other source, or unless the assessments were paid up. Under the existing circumstances there was not sufficient money in the treasury, at the time I resigned, to pay all the debts owing; though, under proper management, I believe the wells could be made profitable at any time.

97 Q. Then you did not consider the company bankrupt at the time mentioned in the foregoing interrogatory?

Ans. I did not consider it so. No company is considered bankrupt that has assets enough to meet its liabilities; and its assets were never all collected and available.

Q. Would the overdue assessments have paid the debts of the company if collected?

Ans. I do not know now whether they would have done it; I can't say certainly.

Q. Would all the assets of the company, if realized, have discharged the liabilities in the summer of 1867?

Ans. I believe they would have done it and left a surplus.

Q. At the time of the sale were there not contracts of the company unexecuted for the delivery of oil to various parties?

Ans. I think there was.

Q. Have they since been executed?

Ans. Not all of them, because one firm refused to take one
98 thousand (1,000) barrels of oil sold to him at ten cents (10) per gallon, because the price declined,) for which I had paid six cents (.06) per gallon.

Do you know what the debts of the company were at the time of the sale, for wages, tanks, royalty, or any other account?

Ans. I do not know; I never could find out, owing to the bad management of the affairs of the company by the different superintendents.

Q. Did you not, in the summer or fall of 1867, consider and pronounce the whole enterprise a failure?

Ans. I don't know that I considered it a failure, and don't know whether I pronounced it so or not.

Q. Do you know on what grounds the bill in this cause claims an account from Dr. Marbury of the profits realized by him? if so, state them.

Ans. Because Dr. Marbury took possession of the property to recover the money he advanced; after which time, that is to say, after he had been paid, it was still the property of the company.

99 Q. Do you understand any such terms as being expressed in the deed of trust?

Ans. I do not suppose it was so worded in the deed of trust.

Q. Where, then, is any such stipulation to be found?

Ans. It was just the understanding between us, and I always considered my stock good when the property yielded an income, and have saved my certificate of stock.

Q. When was such an understanding had, and on what was it based?

Ans. When the deed of trust was given. It was simply a verbal understanding.

Q. Was not the foreclosure of the deed of trust by Dr. Marbury acquiesced in by you and other members of the company?

Ans. We knew that the mortagge was to be forclosed, and there were other parties threatening to sue for some small amounts due, and we allowed it to go on to prevent an annoyance.

Q. Did you not advise him in regard to advertising the property?

100 Ans. I do not recollect.

Q. Was it not known to you and other members of the company that Dr. Marbury might bid at the sale?

Ans. It was known to us.

Q. Was it objected to?

Ans. I don't recollect that any of the company made objection; I think they did not.

Q. Have you produced all the letters that you have received from Dr. Marbury, or which you now have?

Ans. I have other letters at home from him.

(Counsel for deft. here calles upon counsel for complt. to produce all the letters in his possession from the deft.—INGERSOLL, *Examiner.*)

Q. Did not Dr. Marbury offer to you and others jointly, or to others in your presence, after the sale, the privilege of participating in his purchase on the basis of his debt or something equivalent?

Ans. I recollect an offer made by Dr. Marbury something to that
101 effect, but my recollection is that it was made at the time the deed of trust was given. I don't recollect any offer made by him after the sale. I do not know from the information of others that such offer was made after the sale.

Q. Did any members of the company after the sale seek to avail themselves of the offer which you have above mentioned?

Ans. Not that I am aware of.

Q. Do you not know that this offer was kept open by Dr. Marbury for the action of the company, or its members, for 60 days after the sale, or any time?

Ans. I do not.

Q. Did you not decline to avail yourself of the offer because you had no money?

Ans. I did not.

Q. Did you not consider and deal with Dr. Marbury after the sale as absolute owner of the property?

Ans. I did not; I bought oil from him to fill oil-contracts of the company, however.

Q. When did you first hear that the Warner well had been
102 ascertained by survey to be on this property?

Ans. Between the time of sale and the end of that year, 1867, I think.

Q. Are you positive that it was not in the fall of 1868?

Ans. I am not positive.

Q. Did you then think the company were entitled to any more of the profits of the Warner well than were realized before the sale to Dr. Marbury?

Ans. I supposed that the company were entitled to the profits of the Warner well from the time it was bored to the time of the sale. After knowing it was on the property, I regarded that well as belonging to the company as much as the other wells.

Q. Did you not consider Dr. Marbury as absolutely entitled to the profits after the sale, and express yourself gratified after the Warner well matter was discovered?

Ans. I considered him entitled to the proceeds until he had made enough to cover his loss, and no doubt I expressed myself glad
103 that the Warner well was on the property, as I expected to be benefited by it.

Q. Did you consider the company bound to pay Dr. Marbury's expenses if he failed to realize?

Ans. I don't know whether I considered the company legally bound or not.

Q. Suppose he had lost money, did you consider yourselves as bound to share the loss?

Ans. I don't think that I committed myself in any way so that he could have compelled me to do it.

Q. But if Dr. Marbury was working the well for the benefit of the

company, and not as purchaser, how could you expect to avoid your responsibility for your proportion of the loss?

Ans. I considered at the time that Dr. Marbury was working the well for his own benefit, to make good his loan to the companies.

Q. Then you considered that he was working it on his own
104 account if he lost, and for the compan*ie*'s benefit, after satisfying his claims, if he succeeded?

Ans. I don't mean to be so understood. I considered that he was working at his own risk to get back the money that he loaned the company, and was not entitled to the profits after that time.

Q. What then, in your opinion, was the effect of the sale?

Ans. At the time of the sale there was some trouble about some debts, and being sold at trustees' sale he had possession of the property, I suppose.

Q. Did you, or any one of the company to your knowledge before the new discovery of oil, in 1869, offer to share Dr. Marbury's expenses in running the wells?

Ans. I did not, and nobody else to my knowledge did.

Q. Did you ever assert any title to this property since the sale to Dr. Marbury, before September, 1870; and if so, when?

Ans. I repeatedly said to Dr. Marbury when I met him that I expected him to pay over our proportions of the profits. I can't say
105 whether this was before September, 1870, that I so said to him or not. I cannot recollect.

Q. Look at the letters now shown you, and say whether they were written by you.

Ans. They were.

(These letters are now offered in evidence by deft., and the same are here filed and marked "Exhibits J. S., Nos. 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, & 31," respectively.

By agreement of counsel, it is adjourned to a time to be hereafter agreed upon.

EDWARD C. INGERSOLL,
Examiner in Chancery.

Testimony of Oscar R. Hough for complt.

SATURDAY, *October* 21*st*, 1871—10 *o'clock a. m.*

By agreement of counsel, proceeded to take testimony in the above-entitled cause as per adjournment; whereupon,

OSCAR R. HOUGH, residing in the city of Washington, aged 33 years, a witness produced, sworn, and examined on the part and behalf of the complainant, deposes and says as follows, to wit:

106 I became connected with the Twin Lick Co. as an organization in July, 1866. It was not then a stock company.

About October, 1865, Mr. George Jackson received a lease of this particular piece of land from the Volcanic Oil and Coal Company. He sold the lease upon a certain condition, specified in the lease, to four (4) parties, B. G. Wilson, O. R. Hough, (myself,) W. D. Colt, and J. Carter Marbury. In January, I think, 1866, these last-named parties re-assigned a certain interest to others, of which others Dr. Marbury was one. Some of these last assignees formed a joint-stock company. About one year before the formation of any incorporated company, work had been begun on the property, under my own supervision. A well was commenced in October, 1865. Under my superintend*a*nce we bored

to about 60 feet only. I was relieved by Mr. B. G. Wilson, and he in turn by Col. R. E. Colt, and he was in turn relieved by George Jackson. Under these various superintendents the well was put down to 226 feet. The time occupied in this was until about April, 1866.

107 At that time the tools became fastened in the well, and the available funds of the company were exhausted. Up to this time, April, 1866, there had been no organization, each man holding his share of the land in fee-simple under the lease. At that time work had ceased. The well was virtually abandoned. Up to this time money had been raised by assessments upon each interest. I made an effort, which was fruitless, to get additional assessments at that time, and therefore notified certain of the parties that I would take charge of the well again and advance the necessary money to put down a new well, the experiance of the other superintendent having proved the uselessness of attempting to extricate the tools which had become fast in the old hole. I made contracts, and put down a new well to the depth of about 280 feet, and struck oil, on or about the 1st of June, 1866. The money for putting down this last well, amounting to about $1,960.00, was advanced by me. The well was estimated at the time to be what was termed a hundred-barrel well; that

108 is, yielding a hundred barrels a day. I immediately notified some of the owners of the "strike," that is, of the success. The next strike was a call for a meeting of the owners, at Parkersburg, W. Va., to take steps to perfect an organization. This meeting took place at the Swan House, in the city of Parkersburg, in July, (I think,) 1866. To the best of my recollection, there were present at that meeting, Mr. J. Carter Marbury, Jordan Stabler, W. N. Lloyd, W. D. Colt, and myself. I know these named were present; there may have been others. An organization was perfected at time by an election of a president and board of directors, and I was appointed regularly as superintendent of the company, at a salary of $1,000.00 a year, I think. Under my superintendence the well was worked until about September, 1866. I then resigned, and was succeeded by Chas. H. Slicer. I got back the money advanced by me from sales of oil and assessments during the period

109 of my superintendence from July until my resignation in September. And at this time, September 1866, the company was in a perfect solvent condition. I know that Slicer was superintendant, and until March, 1867. The board of directors elected at the meeting in Parkersburg, in July, 1866, were John T. Corcoran, J. Carter Marbury, W. D. Colt, Jordan Stabler, and myself, to the best of my recollection. The board organized by the election of John T. Corcoran as president and Jordan Stabler as secretary and treasurer. There was a charter obtained in September or October, 1866. I continued to visit the property as a director, and exercised such supervision as a director should, from time to time, after Slicer was appointed superintendent.

Q. State what operations were carried on at the well up to the 1st of February, 1867, so far as you know them.

Ans. The well was being worked. Also some time between Sept., 1866, and February 1st, 1867, a new well was ordered to be put down on the lease, and was sunk some distance, I can't say exactly what distance.

110 Q. What was the financial condition of the company in January, 1867, and what produced that condition?

Ans. To the best of my knowledge, the company was cramped for means. I suppose owing to the non-payment of the assessments on the part of some of the owners, and the small returns from the sales of oil.

The small returns was owing to the low price of oil. I know that the second well, when it did "strike" was considered one of the best wells out there, but remained unworked for some days, I don't know how many. I think both wells were producing oil in January, 1867.

Q. Did you attend a meeting of the board of directors in the latter part of January, 1867, at Mr. Stabler's office, in Baltimore, and was the defendant present there?

Ans. I did. I think the defendant was present.

Q. State whether any discussion occur'ed about raising funds, and what was the sense of the meeting at that time on the subject, and what passed at that time.

111 (Objected to by counsel for deft. as not pertinent; the minutes being the best evidence.—INGERSOL, *Examiner*.)

Ans. The matter of raising funds to relieve the pressing necessities of the company as reported by the superintendent, Mr. Slicer, who was then present, I think, was discussed. The proposition to get a loan of $2,000 was advanced upon the owners giving their individual note, in proportion to their respective ownership, and an assessment of $100.00 per share was talked of, but whether made or not I am not able to say. After the adjournment of the meeting Dr. Marbury and myself waited upon Dr. W. G. Palmer to endeavor to effect this loan. We did not succeed in effecting the loan. A few days after this I went to West Virginia. I remained there until the latter part of February or the first of March, 1867. Dr. Marbury came there while I was there, with Mr. J. Carter Marbury also. I went to the property with them; can't say exactly how long I stayed there.

112 I should say the credit of the company in March, 1867, was good. I can't say how much oil we were producing.

I knew the *the* Twin wells called the "Warner well." I think they were in operation in March, 1867, and had been for some months previous. I think they laid about 200 feet from the new well and about 260 feet from the old well. They were estimated to be "600-barrel" wells each, when they were first "struck," in about August, 1866. They were not commenced until after we struck oil on our lease. They were pumping the "Warner well" in March, but I cannot state the yield. The "Warner well," according to the lines of the Volcanic Co., were not within our lease, but according to my belief they were. The "Warner well" was called so as it was on what was known as the Warner Oil Co.'s property. Our lease was the first lease and the only one surveyed at the time we became owners of it.

113 The Warner lease was subsequent to ours, and both from the same company, to wit, the Volcanic. I think the lines of the Warner Company were run between the months of June and September, 1866, while I was superintendent. Our lease was a square lease, made before any general survey. At the general survey they made the leases so as to strike ours and cut into it on the northwestern corner at an angle. Exhibit O. R. H. No. 1 (herewith filed and marked as above, Ingersoll, ex'r,) shows the relative situation of the leases and the location of the wells referred to in my testimony. Under the instructions of the company I located the second well near the northwest corner, as shown in the Exhibit O. R. H. No. 1, near the place where the Warner well is now located, but was made to change the location by the Warner Oil Co. and Volcanic Oil Co., they contending that I trespassed on their lines. I went to the office of the Volcanic Co., the lessor, and saw their diagrams, and yielded, as their diagram showed us to be tres-

114 passors, being within 16 feet of the adjoining property in contravention of the lease as shown by their diagram.

Q. Did you become secretary and treasurer of the company; if so, when?

Ans. I did become secretary and treasurer on the 20th of July, 1867.

Q. Did you ever have possession of the book containing the minutes of the proceedings of the board prior to that date?

Ans. I received one book in which the minutes were said to be written. I do not remember ever to have looked into it. I do not remember from whom I received it. I have made diligent search for it and have not found it. I am satisfied that it was stolen by a boy in the employ of a gas company with which I was connected.

Q. Did you make any minutes of the proceedings of the meeting held on the 20th of July? If so, produce them.

Ans. I did. I now produce them. (The same is herewith filed and marked "Exhibit O. R. H. No. 2."—INGERSOLL, *Examiner.*)

115 (Mr. Davidge for deft. objects in time to the introduction of the above exhibit.—INGERSOLL, *Examiner.*)

Q. Do you remember the proceedings of that meeting, independently of this paper?

(Objected to by Mr. Davidge, for deft.—INGERSOLL, *Examiner.*)

Ans. I do, a portion of them.

Q. State what portion you remember.

(Objected to by Mr. Davidge, as parole.)

Ans. I remember so much of the proceedings as relates to the resignation of Dr. Marbury, and my own election to the position of secretary and treasurer. With regard to the office of treasurer, I supposed that went with the office of secretary. They had been one before. I do not recollect the fact that I was elected treasurer. I remember the report of Dr. Marbury, who had returned from the well, stating under what arrangements the well was then being worked, who were employed, &c., also the voting an appropriation by the board to pay a bill owed at that time by the company.

116 Q. Did you attend a meeting of the stockholders on or about the 9th of September, 1867, at which you acted as secretary, and you make a written minute of said proceedings? If so, produce it.

(Mr. Davidge, for deft., objects to the introduction of parole evidence.—INGERSOLL, *Examiner.*)

Ans. I did attend said *minute*, and did act as secretary, and made minutes of the proceedings of the meeting.

(The same are herewith filed and marked "Exhibit O. R. H. No. 3."—INGERSOLL, *Ex'r.*)

Q. Have you any recollection of the proceedings of that meeting? If so, state them.

(Objected to by Mr. Davidge, for deft., as parole.—INGERSOLL, *Examiner.*)

Ans. As to the date I cannot say. I have only a recollection of holding a meeting at J. C. Marbury's, cor. 15th and New York ave., in this city. Independently of the paper I can't swear as to the date, or as to all who were present at the meeting. But do remember that at the meeting there were present Dr. Marbury, J. Carter Marbury, Mr. Mc-

117 Pherson, and myself. I can only remember that portion of the proceedings relating to the trespass of the Warner Co. on the Twin-Lick ground, and in regard to steps to be taken to ascertain against whom any action should be brought.

Q. Have you a book containing the minutes of proceedings while you were secretary?

Ans. I had a book which I turned over to Col. J. A. Magruder, of Georgetown, after he became secretary of the company.

Q. Did Dr. Marbury ever make any proposition to you to form a new company, or take an interest with him in the property after the sale, within a limited time, or not? If so, state all that passed between you upon that occasion.

(Objected to by Mr. Davidge as leading and irrelevant.—INGERSOLL, *Ex'r.*)

Ans. I have no recollection of his ever having made any offer.

Adjourned, by agreement of counsel, to Wednesday, October 25th, at 9 o'clock a. m.

EDWD. C. INGERSOLL,
Examiner in Chancery.

118 WEDNESDAY, *October 25th*, 1871.

Met pursuant to adjournment. No witness appearing, it was adjourned to Saturday, Oct. 28, 1871, at 9 o'clock a. m.

EDWARD C. INGERSOLL,
Examiner.

SATURDAY, *Oct. 28th*, 1871.

Met pursuant to adjournment, and by agreement of counsel adjourned to Thursday, Nov. 2nd, 1871, at 10 o'clock a. m.

EDWARD C. INGERSOLL,
Examiner.

THURSDAY, *Nov. 2d*, 1871.

Met pursuant to adjournment. Present, Mr. McPherson for compl'ts, and Mr. Cox for defendant.

Direct examination of the witness Hough resumed:

Q. Had you any negotiation or conversation with the defendant after the sale of the property in regard to your rights or liability in respect of the said property? If so, please state fully all that passed between you on the subject.

Ans. I had frequent calls from Dr. Marbury after the sale. I
119 cannot remember the exact conversations, but will say that I always understood from such conversations that I was liable for my interest in the property, inclusive of what was then being done; that is, the expenses of working the well at that time.

Adjourned to Saturday, Nov. 4th, 1871, at 2 o'clock p. m.

EDWARD C. INGERSOLL,
Examiner.

SATURDAY, *November 4th*, 1871.

Met pursuant to adjournment. Present, Mr. Cox for defendant.

Cross-examination by Mr. Cox:

My interest in the lease purchased from Jackson was only one-fourth (¼.) I sold half my interest to Wm. T. Hough. The terms of the organization of July, 1866, to the best of my recollection, were as follows:

We were to go on and develop the property, each party bearing the expenses in proportion to the interet owned by him, the profits, if any, to be divided on the same basis. In case of a non-payment on the

120 part of any one of any assessment called for by a majority of the stockholders, within ten (10) days after receiving notice thereof, such interest could be sold, or so much as might be necessary to pay the assessment. These terms were the same as those set forth in the assignment of the original purchasers of the lease from Jackson. The company assumed the name of the Twin-Lick Co., I think, in July, 1866. The question of obtaining a charter of the Twin-Lick Co. was never brought up at any meeting of the stockholders at which I was present. I was never able to ascertain by what authority the charter was obtained. I never knew of any meeting of the owners until some time after a charter was obtained. I think 2,000 shares, nominal value $25.00, were issued. I am unable to say upon what property-basis this am't of stock was issued, but presume the issuing of stock was done in accordance with the charter. This amount of stock (2,000 shares) was distributed according to the respective of the parties owning the property. I may state that I never regarded
121 the issue of stock as binding, the terms of the charter not having been complied with. I received two-sixteenths ($\frac{2}{16}$) of the total stock issued; assessments were charged against as owing $\frac{2}{16}$. (Witness here examines book marked "Exhibit T. L. C., No. 1," herewith filed and marked E. C. Ingersoll, examiner.) I am here charged with $\frac{2}{16}$, at $250.00 each in December, 1865; in March, 1866, with assessments $50.00 on each share, of one-sixteenth, ($\frac{1}{16}$;) in April the same, ($50.00;) in June the same, ($50.00;) in July with $100.00 per sixteenth; and in February, 1867, with $100.00 per sixteenth. This book is in my own handwriting. I am credited in this book with the full amount of assessments and a little over.

Q. State whether the company, the Twin-Lick Co., was not one and the same company in its action, as an organized body, from its first organization in 1866 throughout.

Ans. To my knowledge there never was any organization effected under the charter. The organization of July, 1866, was continued.

122 Q. Was there ever any re-organization which in the view of the company or its members changed the relative rights of the members towards each other—I mean as to their proportional interest in the property and their proceeds?

Ans. I don't know of anything that was done to change the organization of 1866. The same directors were continued (who were elected in July, 1866,) after the charter was had. After the charter was obtained it was considered by those not parties to the charter that their interest was represented by the directors on the board.

Q. Did not all the parties in interest consider that the charter was obtained for the benefit of all of them; and was not the charter procured n the name of five (5) only, because the law of West Virginia only required that number to constitute a corporation?

Ans. The charter was obtained in the first place by the appli-
123 cants as covering their own interest, with power to take in the interest of the other owners of the property. To my knowledge this was never done.

Q. Was that not done by issuing stock to the others—by admitting them to a participation in the business of the company in proportion to their interests?

Ans. I do not consider that they were admitted to a participation from a failure of the parties to organize under the charter and participations in the meetings being under the organization of July, 1866.

Q. I will ask you to state whether the other parties than those named

in the charter were not admitted to vote in the meetings on the same footing as those named in the charter? Did not they receive stock in like manner? Were they not charged with assessments in like manner as those named in the charter, and did they not generally put them in the same manner?

Ans. They did vote at meeting according to their respective ownership in the property. I am not aware who received stock, not
124 being secretary of the company at the time the stock was , but will say that I personally received stock. They were charged with assessments in the same manner as those named in the charter, but no assessment was made upon stock, and they did generally pay them in the same manner.

Q. Did not the stock issued represent the whole property?

Ans. I presume it did.

Q. What is your interest in the Twin-Lick Oil Co. as a corporation?

Ans. I hold 250 shares of the stock of the Twin-Lick Oil Co.

Q. If the company recover in this present suit from the defendant, what will be your proportion of the amount recovered?

Ans. I suppose according to the amount of stock held by me, that is one-eighth ($\frac{1}{8}$) of the whole stock.

Q. Have you not claimed that because you were not named in the charter, and because you did not convey by deed your interest in
125 the lease to the company as incorporated, you have a right to one-eighth ($\frac{1}{8}$) of the property and its profits independently of the company?

Ans. I do not consider my one-eighth ($\frac{1}{8}$) interest in the property known as lease 36 of the Volcanic Oil Co. to have been embraced in the chartered organization of the Twin-Lick Oil Co.

Q. Then you do consider yourself entitled as suggested in the preceding interrogatory?

Ans. I do consider myself entitled to one-eighth ($\frac{1}{8}$) of the proceeds derived from the lease 36 of Volcanic Oil Co., and that, too, independently of the Twin-Lick Oil Co., as incorporated.

Q. Was not the stock of that company issued to you on the basis of and in the proportion to your interest in the property?

Ans. The stock received by me (250 shares) would bear the same proportion to the whole number of shares (2,000) as my interest in the lease did to the entire lease.

Q. Do you claim your original interest in the property, and the proceeds or profits issuing from it independent of the company, and
126 at the same time claim under the company, and to share in what it may realize or recover?

Ans. I do claim my original interest in the property, and in addition whatever my 250 shares of stock may be worth.

Q. If your interest in the lease was not merged in the corporate organization, what right have you to any of the stock of the corporation, or to claim anything under the corporation?

Ans. The right of owning 250 shares of stock.

Q. Was not your interest in the lease the consideration for which those 250 shares were issued to you?

Ans. I suppose it was so considered when the stock was issued to me.

Q. Did you not accept it with the same understanding?

Ans. I suppose I did.

Adjourned to Monday, November 6th, 1871.

EDWARD C. INGERSOLL,
Examiner.

MONDAY, *November 6th, A. D.* 1871.

Met pursuant to adjournment. No witness appearing, it is adjourned, by agreement of counsel, to Wednesday, November 8th, 1871.

EDWARD C. INGERSOLL,
Examiner.

127 WEDNESDAY, *November 8th*, 1871.

Met pursuant to adjournment.

Cross-examination of last witness resumed:

I am unable to state what proportion of the $1,960.00 expended by me I received back from assessments and what from sales of oil, except by reference to the books. I can't remember whether I received the whole back from assessments or not. I have no recollection of what amounts I was out of pocket at any one time. The second well produced in estimated productions about 260 barrels in 8 hours. That it was its estimated yield the first 8 hours it was pumped; the yield was not measured exactly. It was pumped all through off and on until the latter part of February, 1867, when I left. The production of this well was an average of 10 or 15 barrels for every day it was pumped. There is a general tendency in all these wells to decrease in their yield. I don't know the prices of oil from February to July, 1867. I don't remember
128 whether the meeting I spoke of, at which the subject of a loan was discussed, took place in the latter part of February or the first of February.

Q. You stated that immediately after the meeting you and Dr. Marbury applied to Dr. Palmer to make the loan. Must you not have been authorized to do that by the board of directors, and must not the meeting have decided to make the loan?

Ans. I do not think that we were authorized to make a loan, but desired to see upon what terms the loan could be made.

Dr. Palmer lives in Washington. I am certain that the meeting was held in Baltimore. Immediately after the meeting I returned to Washington, and then went West without attending any other meeting. There were present at the meeting in Baltimore Dr. Marbury, J. Carter Marbury, Stabler, and myself, and I think Slicer was present. They may have spoken of securing the loan with the property of the company, but I do not remember. I do remember that the giving of notes according to the owner-
129 ship of property was spoken of. The Twin-Lick business at that time amounted to so little, in comparison with my other oil operations, that I gave the matter very little attention. I can't remember to what time or place the meeting in Baltimore adjourned. I understood the subject of Dr. Marbury's visit to West Virginia in the spring of 1867 was to examine the property with reference to making a loan to the company. All the examination I know of was that I went to the well with the parties and left them there. I think Slicer was present. It was a mistake in understanding me to say in my direct testimony that the Warner wells were within the actual lines of our lease. I mean to be understood as saying that the spot I had designated first for the location of the second well was within the lines of our own lease. Neither I or any member of our company, I think, ever suspected that the actual Warner wells were within the lines of our lease. It was some
130 time after the sale, I can't say whether it was the fall of '67 or '68, that it was discovered that the Warner wells were within our lease. I can't recollect how it was discovered, but think I heard it from

Dr. Marbury. From looking at the "Exhibit O. R. H., No. 3," I would say it was in 1868. In the "Exhibit T. L. C., No. 1," (the book,) the minutes of meetings were copied some time in 1870. I presume, in copying the minutes, I put the date 1867 from the indorsement on the back of the minutes, ("O. R. H., No. 3.") I don't know when the indorsement was made. I have no recollection that anything else but the subject of recovery from the Volcanic Co. for back profits was discussed at this last meeting. I think no suggestion of a claim against Dr. Marbury was made at that meeting. At the time of the sale to Dr. Marbury the company was very badly off financially. I paid so little attention to the matter that I am unable to state more exactly. I think Dr. Marbury would not have realized what he had loaned if he had not struck
131 light-oil. I always considered that the wells would pay if sunk deeper and properly worked, but this would have taken capital that we did not have at that time. There had been no developments of light-oil at that time. I can't recall any offer made by Dr. Marbury to take in others of the company upon the basis of his debt. I will not swear that no such offer was made, but can't recall it if it was made. The conversations I refer to in the last of my examination-in-chief, between Dr. Marbury and myself, took place between July, 1867, and the fall of 1868.

Q. Was not the purport of those conversations on Dr. Marbury's part, that if you or the others joined him in organizing a new company, he would expect you to share his expenses from the time of his purchase?

Ans. That was not the purport of the conversations on his part, but I always understood from Dr. Marbury that I was liable for my
132 share in the expenses of the well. I can't remember of his alluding to the others of the company. I considered myself liable and proffered Dr. Marbury stock in the Washington Improved Gas-Light Co., in lieu of cash, either in the fall of 1867 or the spring of 1868.

Q. Do you know of any business communication between the Twin-Lick Oil Co., or any of its members, and Dr. Marbury between October, 1867, and September, 1870?

Ans. I do not, other than the conversations with me, to which I have alluded.

Q. What was that proffer of stock by you to Dr. Marbury made for?

Ans. To meet the liabilities of my interest in the property, that is, my share of the debt and the running expenses.

Q. Did you consider yourself liable for your share of the whole debt?

Ans. I did, and so expressed myself to Dr. Marbury and to others.

Q. What did you consider the effect of the sale at that time?

133 Ans. I presume I did consider it a valid sale at that time. In a legal sense I considered the sale valid, and never questioned it; but from conversations with Dr. Marbury, I understood my interest was still good.

Q. Is it upon these conversations that you base your belief on the right of yourself and the company to recover from him a proportion of the profits realized by him?

Ans. It is; and from the fact also that I never signed away my interest in the lease.

(Witness is here handed a letter, herewith filed and marked "Exhibit O. R. H. No. 4," Ingersoll, Ex'r.)

Q. State whether this letter now produced was written by you.

Ans. It was.

Q. State whether, when that letter was written, you did not consider

that the profits received by Dr. Marbury from the well had been realized entirely for his own benefit?

Ans. I can't say; my belief then differs from my belief now. I always considered that I was entitled to the profits according to my interest.

134 Q. If so, why did you not base your application to him upon your right to a share of the profits which he had realized, instead of appealing to his generosity?

Ans. I did not consider it an appeal to his generosity, but simply to get from him what I considered due on another account.

Q. Does not the language of the letter refer'ing to the money realized by him, allude to what he had realized from lease 36, formerly called the Twin-Lick Wells?

Ans. I presume it did.

Q. Did you have any conversation with Joseph F. Brown in this city in the winter of '69–'70, in which you stated that the Twin-Lick Company had failed, and that Dr. Marbury was the owner of the property, and that you were out of the oil business, and that Dr. Marbury had made money out of it, or something to that effect?

Ans. I have no recollection of such conversation.

135 Q. Had you a conversation with Robert Carswell, of Baltimore, in the fall or winter of 1869, in your office on 10th st., Washington, in which you stated that the Twin-Lick Company had failed and that Dr. Marbury had bought and was the owner of the property?

Ans. I have no recollection of such conversation.

Q. Who was the president of the company from February, 1867, until Stabler was elected in 1870?

Ans. W. D. Colt. There was altogether 3 elections of officers, one in July, 1866, one in the early part of 1867, and the last one in 1870.

Adjourned to a day to be agreed upon by counsel.

EDWARD C. INGERSOLL,
Examiner in Chancery.

FRIDAY, *November 10th*, 1871.

Met pursuant to notice. Present, Mr. McPherson for compl'ts, and Mr. Cox for defendant.

Cross-examination of Mr. Stabler resumed:

136 Q. In your letter of September 13, 1867, you say: "I do not intend to go down until I hear that the rest are willing to do something." What action by the others do you allude to?

Ans. I don't recollect what it alluded to.

Q. State more fully all that Dr. Marbury said in your presence or hearing in reference to Dr. Marbury's taking other members in with him.

Ans. I recollect on one occasion, in my counting-room, after a meeting, which I think was before the sale, Dr. Marbury remarked that any one who wished to pay their proportion of the debt, he was willing they should come in with him. The remark made no impression on my mind, as I had no intention of putting any more money in while there were a number who had not paid their assessments.

Q. What amount of stock did you receive in the division of the stock?

Ans. I received my share, one-sixteenth.

Redirect examination:

Q. Was there any limitation as to time in any offer, proposition, or remark that Dr. Marbury made as to other parties coming in?

137 Ans. I never had heard any offer except that one I mentioned in my counting-room, in which there was nothing said about time. I never heard the expression of "time" in connection with it until I saw it in his answer to the bill.

Recross-examination:

At the meeting in July, 1866, and at all other meetings where there was any law business, such as obtaining charter, &c., I left it entirely to J. Carter Marbury. The obtaining of the charter was authorized by the company, I presume. I don't recollect anything about it.

JORDAN STABLER.

Sworn to and subscribed before me this 10th day of November, A. D. 1871.

EDWARD C. INGERSOLL,
Examiner in Chancery.

Adjourned to a day to be agreed upon by respective counsel.

E. C. INGERSOLL,
Examiner.

138 *Testimony of Wm. Thomas for complt.*

MONDAY, *November 13th*, 1871.

Met pursuant to adjournment. Present, Mr. Cox for defendant, and Mr. McPherson for complainant, whereupon

WILLIAM THOMAS, of the city of Washington, D. C., aged 59 years, a witness produced, sworn, and examined on the part and behalf of the complainant, deposes and says as follows, to wit:

I was the trustee that made the sale of the Twin-Lick property in West Virginia. I was called upon by Dr. Marbury, who held the deed of trust against the company, in writing, to sell. I advertised the property in the usual way in Baltimore, Philadelphia, and Parkersburg. I gave all the papers to Mr. Marbury, (deft.,) including the letters to me asking me to sell, and copies of the advertisements. I don't remember what papers I advertised in. I consulted with the Dr., or his brother, as to what papers I should advertise in. Either I or Carter Mar-

139 bury drew the advertisement in Carter Marbury's office, I think. I don't remember whether the Dr. was present or not. When the time came round I went out to West Virginia. I went out to sell the property. I fixed the time in which to sell; 4 weeks, I think. It was all done according to the deed of trust; we put up the well at auction, and sold exactly according to the day and hour advertised. We read the advertisement and sold everything as it stood, including machinery, well-tools, &c. There might have been a little oil in the tank on hand. I did not see any of any consequence. There were some 4 or 5 persons present at the sale; the exact number I can't now recall. They appeared to be men connected with wells in the vicinity, including engineers and superintendents. I know, of those present, Carter Marbury, Dr. Marbury, Mr. Richard E. Colt, and George Jackson. I gave no notice of the sale, except by the advertisements I have referred

140 to. I advertised in Parkersburg, as that was a kind of headquarters for oil men. The property was sold for cash. I suppose the deed of trust fixed the terms of sale. I don't know, however; we tried to do everything legally. I advised with no others beside Dr. Marbury and his brother, Carter Marbury, about it. It was done de-

liberately and lawfully, as we supposed; we went by the deed of trust. I suppose we had several conferences prior to the sale in the office of Carter Marbury. I met Dr. Marbury several times. When the time came round, the Dr. called upon me to sell, and we arranged the advertisements, that is, I arranged them with Carter Marbury at his office. We left Washington about one or two days before the day of sale; we had just time to get out there. The property was all in sight to the company present at the sale. Nothing was told about the limits of the lease, except what appear'd in the advertisement. There were some
2 or 3 bidders. It was started at $500.00 and run up to $1,100.00,
141 at which sum it was struck off. The two wells on the property were pointed out to the bidders, and no other wells were pointed out, save those on the property. I had never been there before. One of the 2 wells was down about 400 feet; they were both in a deep ravine, where a man could hardly walk. One was low down, and one about 40 feet above it; both were on the side of the hill. There were two engines, one at each well. One was borrowed, and did not belong to the company, and was not sold. They were small engines, say about 8 or 10 horse-power; besides, there was some tubing-tools of not much value, and a small tank; if there was any tank sold at the railroad-station I don't know of it. There was no other property sold that I know of. I supposed that Colt was buying the property in for Dr. Marbury. Immediately after the sale, before we left the ground, the Dr. wanted
me to go in with him in the enterprise; I did not think it of any
142 value, and would not go in. I saw all round engines and wells and machinery deserted and for sale at a trifle.

Cross-examination by Mr. Cox:

Q. State whether you conducted the sale in the interest of both parties, debtor and creditor.

Ans. I did.

Q. State whether there was any dictation as to time, terms, or manner of the sale by Dr. Marbury.

Ans. There was no dictation on his part.

Q. Were the terms or the time, or the manner of sale so arranged as to give him any advantage over the company?

Ans. I didn't see any advantage. He had no more advantage than any other party at the sale. The terms were not so arranged as to give him any advantage.

Q. In what character was J. Carter Marbury consulted with by you?

Ans. I don't know who he represented.

143 Q. Was the advertisement, whether drawn by him or you, such as your judgment approved?

Ans. It was. It was the usual advertisement.

Narrative resumed:

I found Carter Marbury on the ground when I got out there to make the sale. There were some wells that pumped occasionally in the neighborhood. I considered the number of advertisements sufficient. I thought Baltimore was a suitable place, as one of the stockholders that I knew lived there. I knew that the Dr. expressed himself as not desirous of speculating, but simply to get back the money he had advanced the company. I thought the sale a fair one, and the price more than I thought it was worth. I understood the property was not paying expenses, and suppose' the company had abandoned it. I told the Dr. that if he ever made anything out of it I would charge him a commission for

selling; otherwise I made no charge. About 3 years after the
144 sale I reminded him of it, and he paid me a commission.

WM. THOMAS.

Sworn to and subscribed before me this 13th day of November, 1871.

EDWARD C. INGERSOLL,
Examiner.

Adjourned by agreement of counsel to Tuesday, November 14th, at 3 o'clock p. m.

EDWARD C. INGERSOLL,
Examiner.

TUESDAY, *November 14th*, 1871.

Met pursuant to adjournment. No witnesses appearing, it was adjourned, by agreement of counsel, to Wednesday, November 15th, 1871, at 3 o'clock p. m.

EDWARD C. INGERSOLL,
Examiner.

WEDNESDAY, *Nov. 15th*, 1871.

Met pursuant to adjournment. No witness appearing, it was adjourned to a day to be agreed upon by respective counsel.

EDWARD C. INGERSOLL,
Examiner in Chancery.

Testimony of Mary A. Magruder, for complt.

JANUARY 16TH, A. D. 1872.

145 Mrs. MARY A. MAGRUDER, being duly sworn as a witness for complainant, says: I am a sister of John T. Cochrane, deceased, who died, I think, the 18th of Oct., 1866. I am one of the legatees under his will.

Ques. Please state whether, in the spring of 1867, you had any conversation with Dr. Marbury, the defendant, in relation to the "Twin-Lick Oil-Well" and the finances of the Twin-Lick Oil Company; if yea, state on what occasion that conversation was held, and what passed between you and him on that occasion.

Ans. I had a visit from Dr. Marbury. I am not clear as to the date of that visit. Certainly I understood from the doctor that the object of his visit was to collect my portion of an assessment made to pay for work done on the Twin-Lick property, in which, as a legatee to my brother, I have an interest. I promised him that certainly I would pay him, and authorized him to collect it from Mr. McPherson. [I did not do it grudgingly.]

(Objected to by Mr. Davidge.)

146 Dr. Marbury at the same time asked me if I thought my brother's widow would be willing to meet her obligation. I told him while I had not the authority to say that he could collect it, [I had not a doubt but that she would meet the obligation with myself.]

(Objected to by Mr. Davidge.)

I was very anxious about this property, knowing that my brother had full confidence in the return that it would make for the money expended.

(Objected to by Mr. Davidge.)

I asked the doctor if some plan could not be made by which the improvement could be made and the work go on, and if he could not, himself, undertake it. His reply was, that he was a professional man, and could not give it his personal attention; that they had already been unfortunate in the selection of the person who had the property in charge.

147 I do not know whom that person was. I don't know that there was anything special said about the finances of the company, except that Doctor Marbury thought the property a rather bad investment at that time.

[I expressed at that time my full confidence in the well itself—in the property itself.]

(Objected to by Mr. Davidge.)

I had only one conversation with Dr. Marbury.

Ques. What, if anything, was said as to the condition of the well at that time; that is, whether the well was pumping or whether they were boring, or what they were doing at the well, or had been pumping?

Ans. The well had been pumping, as I understood the doctor, but there had been a slide in the gravel and the tools had been fastened, and they were not working. That information I got from the doctor.

(Objected to by Mr. Davidge.)

Ques. Did anything pass between you with regard to any future calls for money on account of the Twin-Lick well, or any future expenses to be paid by you? If so, state what passed on that subject.

148 Ans. I told Dr. Marbury that as cheerfully as I had met the first demands I would meet others to develop that property, such was my faith in it.

Ques. What reason have you for thinking that the conversation referred to the Twin-Lick well; was the name mentioned in the conversation——

(Objected to as leading, by Mr. Davidge.)

Or was the well described, or in what way was it designated?

(Objected to as leading, by Mr. Davidge.)

Ans. Certainly, the well was named. I knew of but two interests in oil-wells which *I* at that time my brother possessed. One was in the Twin-Lick Oil Company and the other was in a property in Pennsylvania—"The Potomac." I knew of the names of no other interests which he had until several months afterwards, when the certificates of stock in all the companies in which he was interested were given up by Mr. McPherson.

Ques. Do you remember of Dr. Marbury calling upon you to collect any other assessments?

149 Ans. No, sir; he never has.

Ques. Did you ever have any other conversation with Dr. Marbury respecting the Twin-Lick Oil Company?

Ans. No, sir; I never have.

Cross examination of Mrs. Mary A. Magruder by Mr. Davidge:

Ques. I wish, madam, you would approximate, as nearly as you can, to the time when your conversation with Dr. Marbury occurred.

Ans. My recollection is that it occurred in the month of February, because of household duties which I was engaged in at the time the doctor called.

Ques. Did you pay any money to Dr. Marbury?

Ans. No, sir.

Ques. How long did this conversation last with Dr. Marbury; more than ten minutes?

Ans. I think Dr. Marbury was in my parlor as long as an hour.

Ques. Did you or not talk about other companies and oil-wells generally?

Ans. No, sir.

150 Ques. Try to recollect whether you did not talk about the "Eaton Station Company."

Ans. I already stated that I knew of no other interest—no interest in the Eaton Station Oil Co. at that time.

Ques. But your brother's estate was interested in the Eaton Station Co., was it not?

Ans. Yes, sir; it was, as I found afterwards.

Ques. And you authorized Mr. McPherson, the exec'r of the estate, to pay assessments imposed by the Eaton Station Oil Co., did you not?

Ans. No, sir; never, to my recollection.

Ques. But assessments were called for on account of the Eaton Station Oil Company, were they not?

Ans. Not to my knowledge.

Ques. Did you never confer with Mr. McPherson in regard to the payment of an assessment, or assessments, on account of the Eaton Station Company?

Ans. I think on one occasion when I visited Mr. McPherson *the* told me he had met the doctor's demand for Twin Lick. I have no

151 recollection of his mentioning the Eaton Station Co.

Ques. In what companies was the estate of your brother interested?

Ans. I know now of the Eaton Station, the Burning Spring, the Twin Lick. All these were in Western Virginia; the Potomac in Pennsylvania. I think there are certificates to shew interests in other companies, but really I am not able to tell you.

Ques. Do you not know that your brother, during his last sickness, stated that he considered all his investments in oil-stock worthless?

Ans. Most emphatically, sir, no.

Ques. You are the wife of Mr. James A. Magruder, I think?

Ans. Yes, sir.

Redirect:

Ques. Please state whether this suit has or has not been brought principally at your instance, or through your agency.

152 (Objected to as leading, irrelevant, and not embraced in the cross examination.)

Ans. It has.

MARY A. MAGRUDER.

Sworn to and subscribed before me this 17th day of January, A. D. 1871.

EDWARD C. INGERSOLL,
Examiner in Chancery.

O. R. Hough recalled.

OSCAR R. HOUGH, being recalled as a witness for plaintiff, says:

In answer to the question by McPherson, how many assessments were made and the dates thereof, and the amounts, and what amounts were paid and remain unpaid, and who were the owners on the 10th of July, 1867, I file this statement, marked "O. R. H."

Cross-examination by Mr. Cox:

Ques. From what was this statement made up?

Ans. It was made up from the book filed as Exhibit "T. L. C., No. 1."

Ques. What personal knowledge have you of the pecuniary responsibility of the parties named?

153 Ans. My personal knowledge, so far as concerned Jordan Stabler, Slicer, Lloyd, Ben. Wilson, William T. Hough, and myself, was that they were good. I know that they were able to pay. And as to the others, my knowledge is derived from the promptness with which they had paid previous assessments.

Ques. Were you in business in Western Va., and with whom, and when did that business terminate?

Ans. I was, and with W. N. Lloyd. It terminated in the early part of 1867. I cannot say exactly when, February or March.

Ques. Was your business successful or not?

Ans. It was successful. I simply dis'olved partnership and closed out, leaving no debts unpaid. I paid cash for everything in that concern.

Ques. You have stated in the early part of your examination that you offered Dr. Marbury some Washington Improved Gas Co. stock in payment for your share of expenses. Was it not, in fact, offered as

154 payment for an interest in a new company, to be organized by him, saying at the same time you had no money?

Ans. I have no recollection of having been approached or spoken to regarding the formation of a new company; therefore the offer must have been made as originally stated.

Ques. In whose presence was the offer made, and when and where?

Ans. The offer was made, to the best of my recollection, at the gas-office, on 10th street, some time in 1868. I cannot come nearer to it than to say that it was in some conversation between the summer of 1867 and the close of 1868. I think there were present in the room Mr. Grote and Mr. Arthur. Mr. Arthur is one of the clerks there in the room.

Ques. Did you have any such conversation or make any such offer to Dr. Marbury as above inquired of, in J. Carter Marbury's office, and in his presence, in Plant's building, in the fall of 1867?

155 Ans. I have no recollection at present of having made it.

Ques. What was the market-value of the gas-stock at the time you say you offered it to Dr. Marbury?

Ans. I know no sales made, but it was generally held by the owners to be worth ten cents on the dollar.

OSCAR R. HOUGH.

Sworn to and subscribed before me, twenty-sixth day of January, 1872.

EDWARD C. INGERSOLL,
Examiner in Chancery.

Testimony of Wm. D. Colt for complt.

NOVEMBER 21*st*, 1871.

WILLIAM D. COLT, being duly sworn as a witness for the complainant, says:

I became acquainted with the "Twin-Lick" Oil Company at its organization. Was one of its incorporators, and after the death of Mr. Cochrane I became the president of that company. Dr. Marbury never

156 made any legal demand upon me before the sale for the payment of the loans; but he talked with me about it, and I told him that he well knew the company had no funds to meet the payment, but that I held myself responsible to him to the extent of my interest pro rata.

I had frequent conversations with him to the same effect. These conversations took place before and after the sale. After the sale Dr. Marbury made a proposition that a new company be formed of such members belonging to the "Twin-Lick Oil Co." as desired to come into a new organization, and take the same proportion or interests as held in the "Twin-Lick Oil Co.," saying the doctor, each man, his proportion of the doctor's debt. I answered that I was willing to do so if the others were. I have no recollection of any limit as to time. I think the doctor stipulated that certain members who had not paid up were not to be included. I think we had two conversations to the same effect; but the doctor always held me for my proportion of the debt. I certainly had
157 two conversations, and perhaps more, in regard to my responsibility; those conversations were after the sale. The latest date of those conversations were in the fall of 1867, to the best of my recollection. I had conversations with regard to the business of the Twin-Lick Co. after the sale. I can't give the date, but I would say 2 or 3 mos. after the sale. Those conversations were about the general business and prospects of his success. I think his words were that if he did not succeed it would go hard with him, and that I would have to help him out. My reply was that I considered myself responsible, as I had always told him, to the extent of my interest in the loan. I have spoken to Dr. Marbury in regard to my interests in the Twin-Lick property, and told him that I considered him indebted to me at the least and lowest calculation the amount of money I had originally put in; that he was making money out of money invested by myself and others. I advised
158 him to buy up the stock, as he could then do at a low rate, and thereby save himself much trouble. This was before the suit had been commenced, and I think before any person had spoken to me about the suit. I again used almost the same language after the suit had been talked of. His reply, on the first occasion mentioned, was, Why, you would not make any trouble. I said whether I would or not, but others might. On the last occasion he wanted to talk about the justice of the suit. I replied, I don't care to talk about it. I am of the same mind that I was when I advised you to compromise, and nothing you can say to change my opinion.

Cross-examination:

I became pres. of the Twin-Lick Co. after the death of Mr. Cochrane, which I think was 1867, and I remained pres. until, I think, 1870.

Ques. Did you advise the doctor to sell under the deed of trust?
159 Ans. I told the doctor that he knew we had no money, and that he knew his recourse. I have no recollection that I advised him to sell under the deed of trust. I never offered him money or security for my portion of the debt. I have no knowledge of the others doing so. I mean by legal demand a formal demand, or a demand in writing. The other members of the company did not consent, to my knowledge, to go into a new organization. I know I repeated his proposition to Mr. Stabler. I have forgotten his reply. I have no recollection at this time of anything about the others knowing the proposition, except Stabler. I think we all became responsible at the time of the loan, by verbal assurance, in case the property should not prove sufficient to pay the debt. I had very little to do with the business. I must have known that the property did not sell for enough to pay the debts. My
160 responsibility, about which the doctor talked to me, was my proportion of the balance unsatisfied by the sale under the deed of trust. I have forgotten the precise terms of the doctor's proposition

dered my resignation as sec & treas., which was accepted, and O. Hough elected to fill the place. The latter will be in Baltimore to-day, and will give the necessary authority to pay Wilson. The reason why I resigned was that, the property now being in my name & the royalty not being paid, I was afraid of complications with the Volcanic. There
167 might possibly be a rupture, if not an irruption. I have heard nothing further from the wells since I saw you. I am glad that you have settled with Carswell at last. In your conversation with me you did not refer to the 400 bbls. which were produced by our wells. Allowing for that, you ought to be able to square on the oil acct. with the Volcanic. I hope you will have something left beside to compensate yourself.

Yours, truly,

WM. MARBURY.

There will be another meeting of the board at my office on Thursday night next, if Hough & Colt & Carter return in time. They will be all absent the early part of the week.

JORDAN STABLER, Esq., *Baltimore.*

168 *Exhibit J. S., No. 2.*

WASHINGTON, *June* 14, 1867—456 H st.

JORDAN STABLER, Esq.:

DEAR SIR: I am anxious to hear from Twin Lick. Have you received any news from there? Did you make any contract with any one to pump the run well? Have they succeeded in getting the bit out of the old well? I hope something may turn up to obviate the necessity of selling out. I have not yet advertised, but will do so next week in the Balt. Sun, Parkersburg Times, and Phila. Enquirer. Mr. Thomas sent the advertisement to the Sun and requested to know the cost, and they informed him that the charge would be $18.75; three insertions a
169 week for four weeks. It is nearly double what the Nat. Intelligencer would charge. I wrote to my nephew in Balt. to see if it would not be done for less, but have not heard from him yet. I will thank you to ask Slicer what has become of the barrels belonging to the company. They constitute a part of the property covered by the mortgage. How do you expect to pay the contractors for boring if they go the specified depth without oil? They will have a lien on the well if they are not paid. If you have any funds in hand, after filling your contract with the refiners, I think they ought to be reserved for the payment of this debt. I expect to sell out the concern about the tenth of July next, but have not determined yet exactly the day. I will probably see you before I go out.

I will be glad to hear from you at your earliest convenience.

Yours, truly,

WM. MARBURY.

170 *Exhibit J. S., No. 3.*

WASHINGTON, *July* 24—456 H st.

DEAR STABLER: I can't say that I understand the oil account. Hough suggested that Slicer reported in the spring and delivered in Baltimore 400 bbls. I understood you to say that the contracts with

Carswell & Parkhurst were both to be filled by the oil purchased from the Volcanic, and that after settling with C. & P. there would only be about $500 or $600 to pay the Volcanic, leaving us in arrears 14 or 1500. That you counted the 400 bbls. belonging to us and delivered to Parkhurst on the same footing as the purchased oil, that is, that the profit on all the oil delivered would be one and two cents a gal.; but on the 400 bbls. it was the full 8 cents, consequently the profits
171 ought to be 6 cts. a gal. on 400 barrels—more than the estimate you made in Baltimore, according to my understanding of it. Hough, however, will explain what he meant. I had a letter from Jackson this morning. He has been pumping since last Wednesday nothing but water, except Sunday, when the Valentine well stopped. The Twin-Lick well then colored up some, but when the Valentine commenced again on Monday it went back to nearly pure water. I think we will have to put it down deeper, but will pump for a week longer. The engine at the upper well (borrowed) was sold at sheriff's sale on Friday, and Jackson suffered Ben. Wilson to buy it in at $310. I am afraid I will be put to great inconvenience by this, though Wilson told Jackson he might have the use of the engine to test the well. Please tell B. G. Wilson that I rec. $2.25 for recording his conveyance of royalty.

Yours, truly,

WM. MARBURY.

JORDAN STABLER, Esq., *Balt.*

172 *Exhibit J. S., No. 4.*

WASHINGTON, *July* 6, 1867.

JORDAN STABLER, Esq.:

DEAR SIR: I rec'd a letter from Carter from Twin Lick this morning. He says the upper well is producing 10 or 15 barrels a day. Harris is pumping for half the oil. He says in comparing the accts. of the pipe comp. with Slicer's report there are 550 barrels which cannot be accounted for. Cook has attached the tank at Petroleum. This property is in Ritchie Co., and the deed was recorded in Wood, and he thought that the mortgage did not correct it; but writes that he is informed by lawyers in Parkersburg that if it can be made to appear that Cook or Long were aware of this deed of trust before they commenced
173 proceedings, *that* the mortgage will still cut off their claim. Please hunt up your letters from Cook or others, and see if they intimate any knowledge of the existence of my mortgage, and send them to me immediately. I will go out next Monday night with Mr. Thomas, and want to take with me any evidence you can furnish in the premises. If you do not receive this in time to send the desired documents to this city, send them to Volcano, Wood Co., so that I can get them when I go out. I think Allen intimates in one of his letters that Long or Cook had intimated that they were aware of this mortgage. I was very sorry to learn of your difficulties with Carswell; hope you have prevailed upon him to act right. I do not know how Cook or I could help the matter; if so, I would be most happy to do so. Wilson was over here to see me; stated he could not pay the $198, and did not wish it
174 to be detained from his commissions. I told him I had no authority. He said his commissions would amount to $125.

In haste, yours, truly,

WM. MARBURY.

Exhibit J. S., No. 5.

CINCINNATI, *May* 10, 1867.

Mr. C. H. SLICER:

DEAR SIR: I will be at Petroleum by the first train from Parkersburg on Monday next. I will leave here to-morrow by railroad, and will spend Sunday in Parkersburg. Can you make it convenient to meet me at Petroleum? or if not, be at Twin Lick when I go out, which will be immediately after I reach Petroleum.

Yours, respectfully,

WM. MARBURY.

175 *Exhibit J. S., No. 6.*

WASHINGTON, *Mar.* 21, 1867.

Mr. C. H. SLICER:

DEAR SIR: I wrote to you soon after my return to Washington, but directed the letter to Petroleum, which I have been recently informed is not your P. O., and consequently you may not have received it.

I have purchased for you "Tanner's Index to Diseases," and sent it by mail to Frostburg as you requested. I paid $3.00 for it.

I hope you are getting on well with your operations at Twin Lick. I have purchased B. G. Wilson's royalty; the conveyance to me having been made Feb. 26th, last. Please estimate as near as you can what amount of oil was due him up to that time, as the company in-
176 tend to attach the same for the payment of what he owes the co., and I wish to know, in order that I may be able to tell what shall be due me hereafter. How did you make out with George Jackson? He declined the offer of $400 which I made him. I wish you could get his interest and make the arrangement which you proposed when I was with you.

There will be a meeting of the board of directors next Wednesday; the day for the monthly meeting having been changed from the 2d Tuesday to the last Wednesday of the month, in order that you might report the affairs of the concern up to the 15th of each month, which you said would be more convenient to you.

The weather is horrible, and has been for a month past. The streets of Washington are as bad in many places as the roads around Twin Lick were when I was there. The condition they must be in now
177 imagination shrinks from considering.

Write soon.

Yours, truly,

WM. MARBURY.

Exhibit J. S., No. 7.

VOLCANO P. O., *May* 21, '67.

Mr. JORDAN STABLER:

DEAR SIR: Your letter just received. I have received a letter from Mr. Slicer stating that he is still in charge; and in consequence have written him several times sending receipts, &c., that he wanted.

Dr. Marbury will explain why I wanted money for taxes. We had a long talk about it. The bill has been paid by Mr. Jackson. Amt. forty-three dollars, ($43.)

The infernal tools are not out yet. Several parties are threatening

178 to attach the property every day; and in fact one, I believe, has already gone at it. All other matters about the works are as straight as we can get them.

Respectfully, yours,

G. W. ALLEN.

P. S.—The company owes me about two hundred dollars. Mr. Slicer will give you the amount.

G. W. ALLEN.

Exhibit J. S., No. 8.

TWIN LICK, *June* 10, '67.

JORDAN STABLER, Esq.:

DEAR SIR: We have succeeded in getting out the tools, and will go to drilling again at once. We are pumping the new well; had two breakdowns, but all right now; had to draw tubing one time
179 and tubed twelve feet from bottom on account of sediment in bottom. Been pumping steady for 30 hours, and I think we are pumping about 5 bbls., and improving—some say 10 bbls. My impression is, that if no breakdown in 4 or 5 days, will pump 20. I will write more often now. I was so discouraged about the tools that I did not want to write until they were out. Old man Nelson is going to sue if he don't get his money. I am paying some small bills; I can't get around; paid out about 20 dollars.

Harris is needing some money; he is very attentive to the well.

Mr. Stabler, I want you to see Charley Slicer & have him to give you my acct. in full, and you send me a bill of items, please, and what due me, and I will send you receipt in full, if you can mak' it convenient.

Yours,

G. W. ALLEN.

180 *Exhibit J. S., No. 9.*

TWIN LICK, *June* 12, '67.

JORDAN STABLER, Esq.:

DEAR SIR: Yours of the 8 at hand. As regards the oil Mr. Slicer shipped, it came out of Twin-Lick wells, all but 24 bbls., which I swapped oil with Mr. Backest; gave him oil in our tanks for 24 bbles. he had of ours full of his oil. He shipped, through our tanks, 92 bbls.—shipped from Eaton Station; that I wil' swear too.

The new well was pumpen' about 6 or 8 bbls., I think. Brake down this morning the bolt of the hot-watter pump, but wil' get started this evening. Aga'ne drilling in old well; get'ing 'long vary wel'. You, or some one of the co., had bet'er come out here about Monday or
181 Tuesday of next week; the well wil' be dun in that time; they say by Sadurday of this week. My impression is that you had bet'er have the new well put deeper now, and if you don't get good well out of eather tel' them that you be to take the wells you ar' going to quit the oil b'is'nes'.

Never mind my fool talk, but that good logick.

Yours,

G. W. ALLEN.

Exhibit J. S., No. 10.

TWIN LICK, *June* 14, '67.

JORDAN STABLER, Esq.:

DEAR SIR: I do think the new well is as good wel' as there is on Twin Lick if that watter can be got red of. We was stop'et on

182 'count of co'le' & pump for about 30 hours, and when started up pum'*t* ful' capasity of oil for some time, then turn'd on to watter & some oil at the rates of 6 to 10 bbls. per day. Now, I think, to draw tuben, and put on 2 good side-bags, one on each sid' of crivis, and vary clos'*t* to crivis, I mean sid'-bag and plug, sa' 4 feet each way, and pump spase of 8 feet. I am sertain there is plenty of oil there if we can manage any way of get'ing it out. I wil' make this propesition; I wil' take the well as soon as Harris' contract is over and pump it 10 days for 100 dollars, and if I don't get more than 100 bbls. of oil I wil' charge nothing for my labor; just pay other expenses, or I wil' have it pump'*t* that way now if you sa' so.

183 But the best thing you can do is to come out here yourself at onest, for if you don't we wil' have trouble. There is 3 or 4 of these fellows going to sue, Monday. They say they wil' stob bouth wells Tuesday. I have tole them that some of the co. wo'd be out soon, but I can't keep them off much longer, and the old well wil' be dun' by Tuesday if the men can get co'le. It' no use, Twin-Lick Co. is in bad repute here. Vary near all the outsiders telling the men that is at work that they wil' get nothing for their work. Allso ses they al' broke up; in fact, nothing is to' bad for them. Now if you wil' come out and se' for yourself you can tel' what I have had to contend with for some time; you come and stra'ten up the ac'ts. I sho'ld *of* paid out all my money if you had *of* s'e'd not, but what I've got won't save us

184 now. I wil' give you a list of what is bother'n us now. Nelson—you'v' got his:

Blacklew & Co	2 b. or 4
Murcer, about	50 d.
John Feney & Co	50 d.
L. Book	25 or 30
Davis & McNite	

You have the books, I g'ess. If so, and you can't come, don't you think you had be'ter d'aw them up check and send to me and I wil' give to them and take receipt. If you send checks telagraf*t* to me what day you wil' send them, and I can keep them from sue'n'. You 'no' best what to do. What I say is what I think best. You do as you think best, but they wil' sue sertain, soon.

Yours in hast',

G. W. ALLEN.

185 *Exhibit J. S., No.* 11.

TWIN LICK, *Aug. 4th*, '67.

JORDAN STABLER, Esq.:

DEAR SIR: Thinges is going on direlay; well pumpen about 8 or 10 bbls. per day, ma be more.

Wel I am the onley surviver of the Twin-Lick hands, and I supose I wil stay with them as long as they operate. Mr. Stabler, I want you for to try and have me some of my acts. sent to me; send me what you pleas, and I wil give you clear receipt. Now I think the co. had not want to beet me, for ther is not that man on the workes dun as much for the co. as I. Send me what you pleas & I wil send note and clear receipts in full. Rite at onest.

Yours,

G. W. ALLEN.

186 P. S. Send the money by express, Petroleum. I wil give you details of this consern & co.

Exhibit J. S., No. 12.

TWIN LICK, *July* 2, '67.

JORDAN STABLER, Esq.:

DEAR SIR: Yours of the 28th is at hand. Allso the fifty dollars by express. But Malbary ses he has not the $200 to pay of the other detts. We ar pupen bouth wells at this time. Harris pupen the new well for half of the oil, and Malbry is haven the other pumped; I am pumpen it for him; bin pumpen 36 hours clear watter until 3 hours ago culered up nise; and I think the prosp't vary good now. Jack-
187 sen was here when you riten before and I tole him about the amount of bills out, and he sed he wold rite to you about them. I wil send you receipt for the money you paid me ceepen out what I paid out; I wil send you receipt from them soon.

JULY 2d, 1867.

Received of Jordan Stabler par Twin Lick Oil Co., one hundred and hirty-five $135 on acts. of service for co.

G. W. ALLEN.

Exhibit J. S., No. 13.

VOLCANO, W. VA., *Aug.* 12*th*, 1867.

DEAR SIR: Your letter of the 7th and telegram of 9th inst. were received on evening of the ninth. The oil that was in the tank
188 at the time of the sale was retained by Dr. Marbury and myself for back royalty due us. I think that we have about 200 bbls. on hand that I have pumped since the 10th, but I cannot send it without an order from Dr. Marbury.

The gravity of the oil is not over 28½ and of the best quality. I am now pumping about 10 bbls. per day; oil has gone up here now, and I am afraid that I cannot have your bbls. filled at the price you mention, but if I can do so will let you know soon.

Respectfully, yours,

GEO. JACKSON.

JORDAN STABLER, Esq.

P. S. Dr. Marbury is in Washington; has not been here since sale.

G. J.

189 *Exhibit J. S., No.* 14.

VOLCANO, W. VA., *June* 28*th*, 1867.

JORDAN STABLER, Esq.:

SIR: I have been here since Tuesday morning, and have made a contract with Harris to pump the new well, which he commenced Tuesday on the following terms, viz: He is to get one-half of co.'s oil that he pumps, or in other words one-half of the oil that he pumps, after paying the royalty, and furnishes everything. By this arrangement I will be able to have the well tested without cost to the co. The contract is to remain in force until the 10th of July.

Allen informes me that the debts of the co., not on the book which Mr. Slicer carr'ed off with him, will not exceed fifteen dollars.

190 Mr. Marbury is here, and informs me that Mr. Slicer still has possession of the co. books, which I would recommend you to obtain by all means. After pumping about ten barrels on Wednesday, Mr. Harris drew the tubing, put a seed-bag 410 feet down, and is now pumping (commenced 10 a. m. to-day) water which we hope will be oil

in a day or two. Mr. Marbury is going to test the lower well next week at his own expense, but I suppose he will write you all about it. I will keep you advised of our success.

Respectfully yours,

GEO. JACKSON.

Exhibit J. S., No. 15.

WASHINGTON, *April* 23, 1867.

JORDAN STABLER, Esq.:

191 DEAR SIR: The monthly meeting of the board of directors of the Twin-Lick Oil Company will be held at Carter's office, to-morrow at 5½ p. m., pursuant to adjournment. The principal business I presume will be to make some arrangement about the mortgage which I hold. If the parties interested will join in a note to me for the amount due, I will not foreclose; or any arrangement by which the responsibility will be divided, will be satisfactory. I do not think it just that I should bear the risk alone. Hough received a letter from Joyce yesterday, stating that the bit was still in the well, but that they expected to get it out the day he wrote. Joyce thought that Slicer was incompetent, and I think it would be well to make a change. Hough would go up if he could get sufficient money to pay the pressing debts of Eaton
192 Co. I saw McPherson this morning, and he told me he had not conferred with the wife of Cochran yet for the want of time, but would certainly give me an answer by Thursday. George Wilson was to pay Carter to-day. I hope you may be able to come down to-morrow. I can accommodate you with a bed, and would be glad to have you spend the night with us.

Yours truly,

WM. MARBURY.

Hough told me that Joyce stated in his letter that the oil from the new strike was 28 gravity.

Exhibit J. S., No. 15½.

VOLCANO, *Aug.* 17, 1867.

DEAR STABLER: Your note was duly rec'd. You seem to be under some misapprehension in regard to the wells, formerly the prop-
193 erty of the Twin-Lick Oil Company. No new company has been formed, nor is it probable that one will be formed. The oil that has been pumped since I purchased belongs to me. What remained in the tanks at the time of the sale was given to Jackson and myself for our royalty by resolution of the board of directors, and has been sold. I have purchased another engine to replace the one loaned us, and which has been bought by Col. Ben. Wilson. Wilson wishes to have his engine, and hence the necessity of my buying another. For this I will have to pay $500.25, besides the expense of setting it up. I have spent also about as much more for current expenses. Now, I cannot let you have the oil I have on hand, unless you pay me $3.00, in the tank. To this will have to be added the cost of shipping and coopering barrels,
194 which will amount to at least 50 cts. more. If you will become personally responsible for the payment to me of the amount before indicated ($3 per barrel) I will have it shipped at once. It is necessary for me to have the money immediately upon my return. Jackson has just told me that the proposition is more economical for you than

could be made with any other party out here. If you wish me to send it, let me know by telegraph. I will be here until Thursday next.

Yours truly,

WM. MARBURY.

JORDAN STABLER, Esq.

Exhibit J. S., No. 16.

BALTO., *June* 19, '67.

GEO. JACKSON, Esq.:

195 DEAR SIR: Enclosed please find papers giving you power of atty. to act for the Twin-Lick Oil Co. You will notify all parties who undertake to enter suit against the company that there is a mortgage on it, and they cannot recover by suit; refer them to the Parkersburg Times.

We will hold a meeting in a few days, and notify you of its proceedings.

Yr., &c.,

JORDAN STABLER.

Exhibit J. S., No. 17.

JUNE 10*th*, '67.

Mr. JORDAN STABLER:

I have started the well No. 2, and I think she is pumping tenn bar'els per day, and is improving gragual'y.

I want you to send me some money on the old account. Slicer
196 knows all about it, and if the well continues to pay, I will run her at the same price.

Youres, respectfu'y,

DANIEL HARRIS.

I was conversing with a friend, and we thought that we could pump the well for half the oil, or I would pump on at the same price.

You can consider the matter over and let me *no* which will suit you the best; this well is paying too well to let her stand still.

Exhibit J. S., No. 18.

JUNE THE 16*th*, 1867.

Mr. JORDAN STABLER:

DEAR SIR: I have finis'ed my contract, and now I want to *no* what to do. The well is paying very well, and if you want the well
197 pum't on at the same figures send me some money to car'y on the work; things looks very suspiscious at this present time. If you can't send me my money against Friday, the 21st, I will be oblige' to make myself safe bye law. I have got about 200 bar'els of oil pum't in tank. The property, I see, is all advertised for sail' to satisfy a deed of trust. I would be very glad if you would send me some money to pay off my bills; send $100, and I will wait on the co. for the balance. They have shet the little well down untill they see how things comes out.

The way things is car'ied on it would br'ake up any co.; this is the best location in this State.

Anc'er this on receipt, if you please.

Yo'res respect'ly,

DANIEL HARRIS.

198 *Exhibit J. S., No. 18½.*

BALTO., *Sep.* 25, '67.

DEAR DOCTOR: Enclosed please find Parkhurst's check for $202.23, which I am glad to say covers your bill all to 2.67. I hardly know how to begin to tell what a time I have had since writing you, but I will give you a sketch of how things stand until I can see you.

On Saturday last Slicer attached the money in Parkhurst's hands belonging to the T. L. Oil Co. I called in to see P. the same morning, to hurry him in getting the oil out of the tank, to have it gauged, so I could get a settlement, when he told me of the scoundrel's actions; so I started off to ferrit it out, and after going three or four days to see several constables, who I thought could give
199 me the information, I finally found out this morning that it was filed in court. I then went to work to thwart him, and the only way I could think of, was to keep the tank separate from the rest, as belonging to you, and sold to Parkhurst by you through me, as your agt. As soon as possible I had it gauged, and made Parkhurst a bill in your name, and got a check for the oil @ 7c. per gallon, and gave him your recpt. per Stabler. Then I went to work to settle up the old lot of 913 bbls., having told him I would pay the difference if there was any, and the figures made it out that the T. L. Oil Co. owed J. Parkhurst, jr., & Co. $159.23. Now the Twin-Lick Oil Co. only had $106.75 on hand, and Jordan Stabler had to pay the rest out of his pocket.
200 Thank goodness, the Twin-Lick Company's business is at an end. I am glad to get out even at that and feel clear of it. Had I let it all go together as the company's oil, Slicer would have compelled Parkhurst to pay it to him. The hard-cheek rascal, it seems, will undertake anything. He should prosecuted for stealing the company's oil; but if we sued him it would involve us in the expense of going to West Va. to enter suit, and then get nothing. Well, this attachment was filed in the court of com. pleas, and I had to employ council to defend it, or it would go by default, and then he would get judgment against the company, and throw it into the bankrupt law. Of course, I will have to pay the council, as it is not Parkhurst's place to do it. It is well I took my little 2½% com. some time ago, as pay for a year's work,
201 that I would not do again for less than 1,500 or 2,000.00, adding all the anxiety and responsibility of raising money, &c., &c. The treasuary will be from fifty to 75.00 worse off than nothing by the time I get out of it. Show this to Colt & Carter, and then destroy it, so that it will not be in existence when the suit is brought up; also destroy the letters I wrote you about buying the oil from you to fill the company's contract.

Yr.,

STABLER.

I had to pay Parkhurst for 84 bbls. @ 200 ea. that Slicer stole, and allow 4 gals. for water in ea. bbl., which cut it down below my calculation.

202 *Exhibit J. S., No. 19.*

At an adjourned meeting, held at 3 o'clock p. m. Friday, Feby. 1st, 1867, at the office of J. Carter Marbury, Washington, D. C., only three members of the board were present—W. D. Colt, presdt., Dr. William Marbury, and J. Carter Marbury. The secy. being absent, J. C. Marbury acted in that capacity.

The acting secy. offered the following resolution, to wit: Resolved, That an assessment of $100.00 (one hundred dolls.) per sixteenth be levied and paid at once, and that Dr. Wm. Marbury be requested to endeavor to borrow two thousand dolls. ($2,000.00) upon a mortgage of the property, and a further security of a pledge of the stock of the co.

The resolution was unanimously concurred in.

203 It was further resolved that, upon the payment of a sufficient portion of the assessment, Mr. C. H. Slicer be requested to proceed at once to the lease, and put the work in operation.

The meeting then adjourned.

JORDAN STABLER,
Secy. & Treas.

At a meeting of the board of directors of the Twin-Lick Oil Co., held at the office of the secy. Feby. 16, 1867, three members were present. In the absence of the president, the secy. called the meeting to order, and Dr. Wm. Marbury took the chair.

J. Carter Marbury offered the following resolutions, which were adopted, viz:

1st. Resolved, That stated meetings of the board of directors shall be held on the second Tuesday of every month, at half past seven p. m., at the office of the co. in Balto.

204 2d. Resolved, That it shall be the duty of the superintendent to furnish the treasurer with a full and thorough statement, (accompanied with vouchers,) every month, to be rendered by the fifth of the subsequent month.

Resolved further, That the said superintendent be requested, as far as possible, to procure and furnish vouchers for all expenditure of money.

Resolved further, That the treasurer also be required to make a statement of his transactions during the calender months proceeding the meeting of the board of directors.

3d. Resolved, That the president be requested to appoint a finance committee, consisting of two members, whose duty it shall be once a month to examine the books of the company, the statements and vouchers of the treasurer and superintendent, and to report the result of

205 such examination to the board at its next regular meeting. After some discussion in reference to raising funds for working capital, the meeting adjourned.

JORDAN STABLER,
Sec'y & Treas.

Exhibit J. S., No. 20.

At a meeting of the board of the Twin-Lick Oil Company, held at the office of the secretary, on the twenty-seventh day of December, 1866, a majority were present.

The secretary called the meeting to order, and stated that the object of the meeting was to elect a new president and one director, to fill the vacancy caused by the death of Mr. John T. Cochrane.

Mr. Marbury nominated Mr. Colt for president; the motion

206 being seconded and carried, Mr. Wm. D. Colt was declared elected, and escorted to the chair.

On motion of Mr. Stabler, Dr. Wm. Marbury was nominated for director, which motion was seconded and carried, and the president declared Mr. Marbury a member of the board.

The board examined the books of the company, and endorsed the action of the secretary & treasurer.

The president appointed Mr. J. C. Marbury and Mr. Jordan Stabler a committee of two, to obtain a book of certificates and seal for the company, and directed the secretary to issue the stock to the original stockholders as named in the deed.

The meeting then adjourned.

(Signed.) JORDAN STABLER,
Secretary & Treasurer Twin-Lick Oil Co.

207 At a meeting of the board of directors of the Twin-Lick Oil Co., held January 26th, 1867, at the office of the secretary & treasurer, all the members were present.

The committee appointed to procure a book of certificates and seal for the company reported satisfactorily.

The stock was issued to all present, and the sec't'y directed to issue to those who had paid their assessments.

Dr. Wm. Marbury offered two hundred ($200.00) for Benjamin Wilson's share, and agreed to assume his assessments if the offer was accepted, and the secretary was requested to notify him of the offer.

After several hours' discussion in reference to the necessity and possibility of levying an assessment, and the propriety of confiscating the stock of delinquents, the meeting adjourned to meet in Washing-
208 ton, D. C., at the office of J. Carter Marbury, at seven o'clock, Thursday, January 31st, 1867.

JORDAN STABLER,
Secretary & Treasr.

At a meeting of the board of directors of the Twin-Lick Oil Co., held at the office of J. Carter Marbury, Wash'n, D. C., January 31st, 1867, pursuant to adjournment, there were present W. D. Colt, pres't; Dr. Wm. Marbury, and J. Carter Marbury. J. C. Marbury acted as secretary. The minutes of last meeting were read and approved.

On motion, the meeting adjourned until 3 p. m., Friday, Feb'y 1st, 1867, at the above-mentioned place.

JORDAN STABLER,
Sec'y & Treas.

209 *Exhibit J. S., No. 21.*

BALTO., *Aug.* 9, '67.

DEAR COLT: I received a letter from Jackson to-day, stating that Sterling (the superintendent) will not deliver him any more oil until he hears from Stiles, the pres'd't, or B. G. Wilson. I have my doubts whether they will give us the balance of the oil, and my private opinion is that they will be fools to do so.

I have written to Jackson to get oil from somewhere else, if he cannot get it from the Volcanic Co., to fill 45 bbls. I sent up. I have made the last sale I intend to. I promised to deliver this oil a week ago and it is not yet in the bbls. I cannot do business in that way.

Allen writes me for money. We owe him about $200.00 up to
210 this time. Shall I send him some of the small balance in the treasury. He says that they are pumping from 10 to 15 bbls. per day.

Y'rs, truly,

JORDAN STABLER.

(This shows that Stabler was still secy. & treasurer at this date, and must have been continuously, as he held the office only once.)

Exhibit J. S., No. 22.

BALTO., *July* 25, '67.

DEAR MARBURY: The oil a/c is as plain as A B C, and if you had taken the trouble to examine the books when here you would have understood them.

When we began to ship the oil purchased from the Volcanic on the 1st of April, we had furnished Parkhurst 404 bbls., and Carswell
211 97 bbls., of our own oil, on a/c of the 1,000 bbls. ea. contract, and had been using their money for 5 months. I suppose the four hund'd bbls. you speak of are part of their first receipts on the contract; the funds on hand are the aggregate receipts of all oil sold and not separated from the purchased oil. I think there will be about 400.00 left, when I collect from Parkhurst the 87 bbls. yet due him. We owe the Volcanic Co. about $1,865—have paid them 494, and will have, perhaps, 400 more, making 900.00 for them—say half their bill. We have rec'd from the Volcanic 835 bbls. oil, taken from 1,300, the purchase; it leaves 465 bbls. to be sold. I am too fast; I sold fifty, two weeks ago, to Read, @ 8c—415 bbls. yet remaining; now oil is advancing, and when I think it is at the top I will try to sell the 415 bbls. If we get a good
212 advance on them it may nearly bring us out square with the Volcanic, and I trust it may. Should oil advance, then, to a good price, things will not be quite so blue.

For any further informat'n that Hough cannot give, write to.

Yrs., &c.,

STABLER.

Exhibit J. S., No. 23.

BALTO., *June* 12, '67.

DEAR COLT: I rec'd a letter from Allen, and he says they have commenced pumping oil in the new well to the am't of ab't five bbls. per day, and it is increasing—the contractor who is pumping it says ten bbls.—and makes a call for money, and Allen says he must have some money to pay the small bills now standing, that cannot be put off.

213 I think I will have money enough to pay for the 1,300 bbls. purchased from the Volcanic Co., provided the oil is not attached for our numerous debts before I can get it all here; and if you Washington men intend to take hold of this thing and foreclose the mortgage, you must furnish Allen with working-capital and pay Harris for his pumping. I have intended writing you for a day or two in reference to the disappearance of a portion of our bbls. It seems that Slicer had no notion of getting only half of his pay for his work. When I notified him that he was not needed longer at the well, he took ninety-two (92) of our bbls, and filled them with the oil remaining in our tanks at the well, shipped them to Balto. on his own ac. and drew for the money, and
214 did not inform me of the fact until Wilson returned from the wells and told me that Slicer had taken 92 bbls of oil and shipped them to Balto. to a party by the name of Newbold; whereupon I began to ferret the matter out, and found it a true bill. I wrote to S. to call at the store, not being able to find him where he loafed, and he did so. I made the charge point-blank, face to face, and he said he had done just that very thing. I told him I considered it an underhanded piece of business, and not the clear thing; but he exonerates himself, and says the only thing out of the way was in not notifying me of the shipment. But he knew if he did that I would mix it up with you fellows, and he

would not get his pay. He has pocketed the money and says it belongs to him.

215 The refiners have all been closed for about two weeks, owing to false returns to Gov't, but I think they will get to running again in a few days, and I will do all I can to complete these shipments, as our salvation depends on completing this ten cent (1,000) bbl. contract. If I have any money left I will turn it over to you, as I do not feel disposed to put any more money in oil, and wish some one who has more spare time than I have to attend to the business of the company.

Truly, y'rs, &c.,

JORDAN STABLER.

Exhibit J. S., No. 24.

BALTO, *June* 15, '67.

WM. MARBURY, *M. D.:*

DR. SIR: Your favor of yesterday rec'd. I wrote you the day before, but not as fully as I intended, being, as usual, so hurried.

216 Allen reports the tools out and still boring. He says he thinks they will reach oil territory early next week, and advises some one to go out of which I spoke to you. Your very sensible suggestion has crossed my mind very frequently within the past few weeks; at present it looks as though I would not have money enough to pay for the oil I have purchased, as we cannot ship any more yet, and I do not feel satisfied to pay out any more until I know I will be able to pay for the thirteen hundred bbls., but then if there is any more money I will turn it over to you, and nominate you or Carter for sec'y & treasurer, which office I trust you will accept, as I really have not time to attend to it properly without neglecting my business which I hope may prove more lucrative than my oil speculations.

217 As to the Sun's adv'ts they charge enormously, and I would recommend the American as a much cheaper and better paper.

What does Slicer care for the bbls. when he has pocketed the money? He does not loaf on my premises any more, and I suppose I shall not see him twice a year in future, as he knows what I think of his deceitful appropriation, to say the least of it. Carter is the only available man who has not paid his last assess't, and I propose that you get his $200, and take it out to pay those bills, or if you do not go out to send it to me and I will pay them through the medium of our man Allen. Let me hear from you.

Y'rs truly,

J. STABLER.

218 *Exhibit J. S., No. 25.*

BALTO., *Sep.* 1*st*, '68.

W. D. COLT, Esq.:

DEAR FRIEND: Having been dead a year, his ghost riseth, and I say catch him and squeeze his blood to the last drop; try to get out of the ditch he, Mr. "Oil," took us in. Who would have thought the poor dejected Twin Lickers would ever get anything out of that property? I did not, and do not allow any such flitting delusion to take hold of me at this time.

But Colt, how about that 16,000 barrels of oil Warner pumped while the famous T. L. O. Company flourished? It appears to me that oil pumped out of our lease belonged to us, and if the Volcanic Co. surveyed the ground incorrectly and gave Warner permission to

219 bore on our soil, they must suffer and receive the boot on the

other foot in the shape of a suit. I do not know much about the merits of this case, and am now writing you for information on the subject, supposing you have looked into it.

Please write me and give the particulars in the case. I suppose Dr. Marbury will receive the benefits that may accrue, dating from the sale of the property, and I am heartily glad if he is likely to realize something out of it, as I always feel sorry for him being caught in it as he was.

Let me hear from you.

Y'rs in haste,

J. STABLER.

220 *Exhibit J. S., No.* 26.

While acting as secretary and treasurer of the Twin-Lick Oil Company of West Va., during the months of August and September, 1867, I made a contract in the name of the company with Dr. Wm. Marbury for 165 bbls. crude oil. Said contract was filled by Dr. Marbury, but there was not sufficient funds in the treasury of the company to pay him in full, and the company is still indebted to the said Dr. Marbury for a balance of $32.00. They also owe him $56.00 for freight on a portion of the said oil, which he (Dr. Marbury) was held responsible for and paid to the R. R. Co.

JORDAN STABLER.

BALTO., *June* 3*d*, 1868.

Exhibit J. S., No. 27.

D'R DOCTOR: I did not get your letter in the office last evening as I intended, and I worked until the dead hour of the night last night,
221 with this volum'nous report, which I send to you for the inspection of the board. The books, &c., are at the services of any one who wishes them for examination. I can't see the debts of the company rising like a fog on a spring morning; I would that they were all paid.

In conclusion, I would say that Twin-Lick is a failure. With feelings of kind regard to the said board of directors,

I sign myself your true f'd,

JORDAN STABLER.

BALTO, *Sep.* 26, '67.

Exhibit J. S., No. 28.

WASHINGTON, *Feb.* 12, 1867—456 H st. north.

JORDAN STABLER, Esq.:

DEAR SIR: Enclosed you will find Mr. McPherson's check for $200, on acc't of assessment due from Mr. Cochrane's estate. I hope it
222 will be in time to reach Mr. Slicer, and that he will be able to be off to the well and shove off the threatening troubles. Carter says he will send his to-day also. Please acknowledge the receipt of the above, and also send me a receipt for my assessment.

Yours truly,

WM. MARBURY.

Exhibit J. S., No. 29.

BALTO, *Octo'* 7, '67.

GEO. JACKSON, Esq.:

DEAR SIR: Your favor of 3d inst. came to hand to-day. I have closed up my accounts with the company and have sent Dr. Marbury and the other directors a statement. O. R. Hough is the treas., but he has no

money on hand without he has collected some of the assessments yet due from Benj. Wilson, W. N. Lloyd, and J. Carter Marbury. I
223 had to pay $52.00 out of my own pocket to close the contract that I bought Dr. Marbury's oil for; I paid Marbury for the oil bought from him within a few dollars, and then when I went to settle the account with Parkhurst, instead of getting several hundred dollars with which I intended to pay Allen and the other workmen, I found that the company owed Parkhurst $159, and I only had $107.00 in the treasury to pay it with; therefore you see I have nothing to pay the freight with. My calculations came out short on a/c of Slicer's rascally actions. He stole a lot of our bbls.; I do not know how many, but we bought 281 bbls., and when I settled with Parkhurst I had to pay him for 84 bbls. that Slicer never returned to him. They were bbls. he (Parkhurst) sent up to be filled. 316 bbls. gone, where to, I do not know. I do not know who is to pay this freight. I bought the oil in the name of the com-
224 pany to fill the company's contract, and of course the company owes the freight; but it is a bankrupt concern, and I have paid more than any other member of the company; the others should share the $52.00. I had to pay Parkhurst, but I doubt whether I ever get one cent of it back. Enclosed you will find the letter from Camden & Co.

Y'rs resp't'y,

JORDAN STABLER.

Exhibit J. S., No. 30.

BALTO., *Sep.* 28, '67.

DEAR DOCTOR: Y'rs at hand. You do not seem to understand the attachment; it was not levied on the oil. I am aware that that belonged to Parkhurst as soon as it started, but it was levyed on the money in P.'s hands, and the law gives every person the power to attach
225 money if his claim be just; now we all know that his claim was unjust, and yet he could attach the money and sue the co. We must be defended, and the lawyer is to be paid for it, by somebody. I employed him, and I suppose I will have to pay him and get nothing back. If you have any money in the treasury, I consider that the T. L. Co. owes me still $27.67. I think my statement shows very clearly that there is not a dollar in the trea'y, and I had to pay $52.00 out of my own pocket to settle the contract. I took off the $6.00 for loading the tank and filling the bbls., because I considered it only just that the company should not pay it, as it is customary to load the bbls. on the cars when a sale is made. But you are certainly entitled to the bal. I did not calculate the number of bbls. the tank would have made, as there was not money enough to pay for it.

226 You must look to the three delinquents in assessments to pay you the balance, Carter, Wilson, & Lloyd, as the rest have paid their full share.

I would like to know the action of the meeting, when held; will attend it if I can get off, but will be very busy all next week and the week after. I supposed there would be one or two hundred dolls. in the treas'y when I had settled with Parkhurst, which I wanted to pay all the debts to the workmen with, but the bbls. Slicer stole had to be paid for, which took more than the company owned. I sincerely hope you may come out clear, but thought when you loaned the company 2,000.00 that you would never get it all back, therefore I did not say I would be responsible, as Colt, Carter, & Hough did. I had at that time lost all faith in it & did not believe it would pay.

Y'rs truly,

STABLER.

227 There is yet 800.00 due on assessments, w'h would pay the Volcanic debt. Wilson 300.00, Lloyd 300.00, and Carter 200.00. I regret very much that the affairs of the co. are in such a bad state, but I feel that I have done my duty by it in every respect.—J. S.

Exhibit J. S., No. 31.

BALTO., *Sep.* 13, '67.

DEAR MARBURY: Y'rs of yesterday at hand. In regard to the capacity of oil bbls. I do not know that there is any rule, but you have lost about as much as it is reasonable that you should, and in fact a great deal more, so that I will do my best for you.

As for the day named, Tuesday, 17th, it will suit me as well as any other day, but I do not intend to go down until I hear that the rest are willing to do something with me on receipt of this, & oblg. y'r, & in haste,

JORDAN STABLER.

228 In the supreme court of the District of Columbia.

TWIN-LICK OIL COMPANY *vs.* WILLIAM MARBURY. } No. 2345. Eq. doc. 11.

EXHIBITS TO THE COMPLAINANT'S TESTIMONY.

Exhibit "O. R. H."—Filed Dec. 9, 1872.

Question. State how many assessments were made on the several interests and the date thereof, for what amounts. How many and what amounts have paid, and how much remain' unpaid? Who were the owners on the 10th of July, 1867, and what was their pecuniary responsibility?

Answer. Assessments were made on such interest for the following amounts on the dates herewith given:

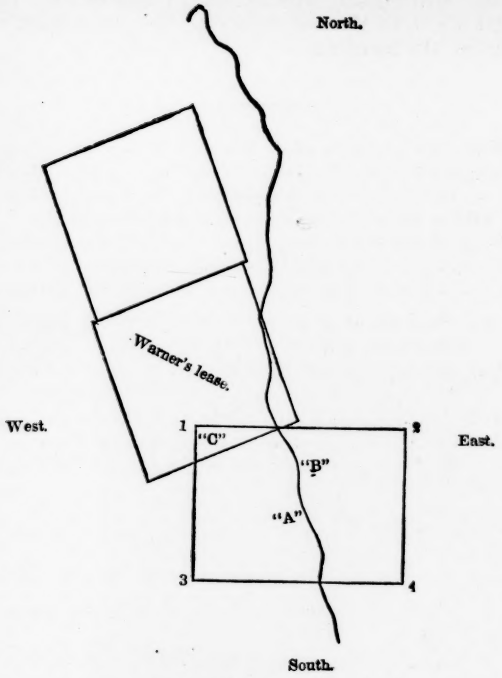
229 Dec., 1865, $250.00; March, 1866, 50; April, 1866, 50; June, 1866, 50; July, 1866, 100; Feb., 1867, 100—making $600, the total assessment on each 16th interest, making in all $9,600, of which $8,875 have been paid, leaving unpaid $725, as follows:

J. C. Marbury, $100; W. N. Lloyd, 275; D. W. Long, 50; B. Wilson, 300—$725.

The owners, on the 10th of July, were as follows. Their pecuniary responsibility at the time is noted after the names:

J. Carter Marbury	$\frac{2}{16}$	good.
W. D. Colt	$\frac{2}{16}$	good & prompt.
Dr. Wm. Marbury	$\frac{1}{16}$	good & prompt.
John T. Cochrane	$\frac{2}{16}$	good & prompt.
230 Jordan Stabler	$\frac{1}{16}$	good & prompt.
C. H. Slicer	$\frac{1}{16}$	good & prompt.
W. N. Lloyd	$\frac{3}{32}$	good, but slow.
D. W. Long	$\frac{1}{32}$	good, but slow.
B. Wilson	$\frac{1}{16}$	not good.
O. R. Hough	$\frac{2}{16}$	good & prompt.
W. L. Hough	$\frac{2}{16}$	good & prompt.
	16	

Exhibit "O. R. H.," No. 1.



"A."—Twin-Lick No. 1.
"B."— " " " 2.
"C."—Warner wells.
1, 2, 3, 4.—Twin-Lick lease No. 36.

231 *Exhibit "O. R. H.," No. 2.*

A called meeting of the board of directors of the Twin-Lick Oil Co., held July 20, 1867. On motion the resignition of Dr. W. Marbury as sect. of the board , and O. R. Hough appointed to the position.

Dr. Marbury made a statement of his doings while at the well as follows: That Geo. Jackson was employed as supt. at the rate of 1,000 per year, and G. W. Allen and Harris as engineers at the rate of 2.25 per day. That under this superintendence the well is now being worked.

On motion a credit of $100 was given J. C. Marbury on the amt. previously owing, there being a balance of $100 still due from him.

On motion J. Stabler & O. R. Hough were appointed a committee to dispose of the oil now on hand or to be rec'd from Volcanic Oil Co.

On motion adjourned to Thursday night of next week.

232 *Exhibit "O. R. H.," No. 3.*

At a called meeting of the stockholders of the Twin-Lick Oil Co., held at the office of J. C. Marbury, Washington City, on the 9 day of Sept.,

1867, a majority of stockholders being present, upon motion of J. C. Marbury, Mr. McPherson was called to the chair. Upon request of the president Mr. J. C. Marbury made some explanitory remarks relative to the object of the meeting.

Stock represented.

J. C. Marbury	$\frac{2}{16}$ shares.
Wm. Marbury	$\frac{1}{16}$
J. Stabler	$\frac{1}{16}$
J. T. Cochrane	$\frac{2}{16}$
W. D. Colt	$\frac{2}{16}$
C. H. Slicer	$\frac{1}{16}$
O. R. Hough	$\frac{3}{16}$

Upon motion of J. C. M. it was ordered that a particular state-
233 ment of facts regarding the dates be prepared by the sec. and submitted, through Geo. Jackson, to Marvine Johnson, esq., for his opinion as to the rights of the lessee and his assigns to lease No. 36 of the Vol. Co. & Oil Co., as to the change of the lines of the original lease by the Volcanic Company, and against whom any action should be brought.

Resolved that the attorney of the co. be requested to ascertain the amt. of oil produced up to the time the lease was transferred to Wm. Marbury 10 July, 1867. Carried.

Upon motion it was decided to adjourn, to meet upon call of the secr.

Exhibit O. R. H., No. 4.

WASHINGTON, 926 *8th st., Sept.* 29, '70.

Dr. WM. MARBURY: I have made sundry ineffectual efforts to
234 have settled the amount due me by the Eaton Station Oil Co. I find myself now in a condition compelling an effort that must ensure success, i. e., the law. Before proceeding, however, to that extrem emeasure, I wish to state plainly to you my condition, in the hope that I can conclude with you some arrangement whereby I can get ready money, which I am in the extremist need of, being confined to my room by sickness and actually in want. I ask only what is due me, a return of money actually paid out of my pocket on account of yourself and others, and it does seem hard that while I and my family are suffering for the common necessaries of life, that those for whom I have paid money should stand aloof and render me no assistance whatever. The books of the co. show a balance due me of over $300, with interest from 1867,
235 and I think that, as the co. have land worth far more than all its debts, that it is not asking too much of you, who have realized so much money from means expended by myself and also, from better experience, to take this debt off my hands and prosecute it. I am willing to allow a reduction at any rate. Will you not pay over the balance due from you to the co., so that I may at least get something without delay? I ask it of you as due from you. I ask it of you as a friend. I ask it of you from absolute want.

Let me hear from you.

Respectfully,

OSCAR R. HOUGH.

236 In the supreme court of the District of Columbia.

Deposition for defendants.—Filed Dec. 9, 1872.

TWIN-LICK OIL CO. *vs.* WILLIAM MARBURY. } In equity. No. 2345.—Doc. 11.

DISTRICT OF COLUMBIA,
County of Washington, ss:

Be it remembered that, at an examination of witnesses begun and held on the 4th day of April, A. D. 1872, and continued from time to time by adjournment until the 14th day of October, A. D. 1872, when the within depositions were taken, I, Edward C. Ingersoll, an examiner in chancery, did cause to be personally present at the office of Walter S. Cox, esq., in the city of Washington, in said District, the within-named witnesses to testify on the part and behalf of the in a certain cause now pending in the supreme court of the District of Columbia, wherein The Twin-Lick Oil Co., complainant, and Dr. William Marbury is defendant.

237 THURSDAY, *April 4th*, 1872.

Met pursuant to notice, to take testimony on the part of the defendant in the above-entitled cause.

Present, Mr. Cox for defendant.

Testimony of J. Carter Marbury for defendant.

Whereupon, J. CARTER MARBURY, residing in the city of Georgetown, D. C., aged 37 years, a witness produced, sworn, and examined on the part of the defendant in the above cause, deposes and says as follows, to wit:

In the fall of 1865, William D. Colt and myself visited West Virginia for the purpose of finding some oil territory. We met Mr. George Jackson, and with him negotiated for the purchase of the lease known as No. 36, of what was known as the Volcanic Oil and Coal Company's lands. That lease was made originally to George Jackson, and by him assigned to William D. Colt, Oscar R. Hough, B. G. Wilson, and myself. We then conveyed certain interests in it to
238 John T. Cochrane, William T. Hough, W. N. Lloyd, Chas. H. Slicer, and William Marbury. This last assignment by us was made in the early part of 1866, in January I think. Most of the parties interested in this lease were also engaged in boring for oil in another tract of land which they owned. They were working under a charter obtained from the State of West Virginia, and it was the understanding that the lease "36" should be worked as a company, and a charter should be procured as soon as possible. The work was commenced and prosecuted under individual assessments until July, 1866, when a meeting of the owners of the lease was called at Parkersburg, to take steps to organize a company for the proper prosecution of the work. At that time a well had been struck, which yielded about 30 or 35 barrels a day. The meeting was held at the "Swan House," in Parkersburg, in the middle of July, at
239 which were present William D. Colt, Oscar R. Hough, Jordan Stabler, W. N. Lloyd, and myself, and I think also D. W. Long, who had purchased a portion of the interest of B. G. Wilson. Hough stated he was authorized to act for his brother Wm. T. Hough, and I was authorized to act for Mr. J. T. Cochrane and William Marbury,

though neither Hough or myself had powers of attorney. At that meeting I was authorized to procure a charter for the company, without a dissenting voice. The procuring of a charter was a very simple matter, it only being necessary to file with the secretary of state of West Virginia an application by not less than five person, under oath, and setting forth the objects for which the company was to be formed, upon which the charter issued. The signers to the application for the charter were John T. Cochrane, Wm. D. Colt, Jordan Stabler, William Marbury, and myself. I selected those five because they lived near each other, 4 in this city and 1 in Baltimore, and were accessible to make the
240 necessary affidavit. The others lived at a distance from me, and I could not get at them readily, and it was only necessary to comply with the law. The charter was received by Jordan Stabler, the secretary of the company, he having been elected secretary and treasurer at the July meeting. The property was worked under the direction of the board of directors elected at the July meeting, in anticipation of the charter from the date of their elec ion down to the time of the sale in 1867, there being but one change during that time, and that owing to the death of Mr. Cochrane, who was the then president; he died in the latter part of the year '66, and Wm. D. Colt was elected president, and William Marbury was elected to fill the vacancy in the board of directors. The board made all assessments, and called them in, that is, collected them, and applied them and the proceeds of oil, obtained from the first well, to the paying the debts and expenses of working the con-
241 cern. After the charter was procured, the stock was distributed among the several stockholders according to their several interests in the lease; the number of shares and capital stock was fixed at the July meeting, and the organization of the stock company was based upon that lease, and it was the only capital that the company had. My understanding was that the lease was to be conveyed to the company by the respective owners of that lease, who were the only stockholders in the company, in exchange for their shares of stock issued under the charter. I had some conversation with Mr. John Cochrane, who was the master-spirit in the enterprise, and the president, with regard to making this conveyance, and suggesting that it should be made, and he answered me by saying that he didn't think it was necessary to go through that formality, as the owners of the stock in the company and the owners
242 of the lease were the same, and their interests in each were the same, and that we expected that we would make so much money out of it that no one would be willing to part with any interest.

The company's property was worked under various superintendants from the time of its purchase down to the time of the sale, and with indifferent success, the first well yielding at the outset not over 35 barrels, the price of oil having fallen off, and the well itself decreasing its yield daily, so that, to the best of my belief, in the latter part of '66 it was not yielding ten (10) barrels, and of that $\frac{3}{8}$ had to be paid in royalty, and the balance was hardly, if sufficient, to pay the expense of running the concern, the cost of transportation in getting the oil to the railroad nearly eating the whole of it up.

The company was hard up for money all the time; a number
243 of the assessments were unpaid and uncollectable. In December, 1866, or January, 1867, the first well having ceased to pay expenses, the board of directors ordered a new well to be bored for, and I think oil was struck in the latter part of December, 1866. When this last well was struck, the company was $3,000.00 in debt, as reported by the superintendant at that time, Chas. H. Slicer. This well was re-

ported to have pumped 200 barrels in 16 hours the day it was tested. It was not pumped again for 21 days. The tubing was drawn out, as I was informed, and the well was left exposed for these 21 days, and this exposure killed the well by flooding from water-veins, which is always injurious and often fatal to oil-wells. The superintendant was called to an account for this neglect of the well, and asked why he did not immediately purchase tubing and pump the well. His reply was that he had no money with which to purchase; that the company was
244 three thousand dollars in debt and had no credit. I understood that the tubing with which he tested the well was borrowed, and that he had to return it. My recollection is that it was 24 hours after the well was struck before he could borrow tubing with which to test the well. The directors, being notified of this well and of the condition of the company and its want of funds, met in Baltimore to devise ways and means to raise funds to prosecute and to avail themselves of the last strike of oil. It was after the strike of this last well that William Marbury was elected director in place of Mr. Cochrane, deceased. This last meeting of the directors was held in the latter part of January or the early part of February, after we had heard of the neglect of the superintendent (Slicer) to procure tubing. It was held in Baltimore at the counting-room of Jordan Stabler. I think at this
245 meeting there were present Jordan Stabler, Colt, Hough, and the two Marburys, and Slicer. Slicer insisted upon having money before he went to West Virginia, and positively refused to go back to his duties as superintendent unless he was furnished with $3,000.00 to pay off the indebtedness as he had reported it to be. The question how to raise the necessary amount was discussed. It seemed to be impossible to raise the money by assessments, as most of the parties interested appeared to have lost faith in the undertaking, and the unexpected amount of the indebtedness of the company, and the careless management of it, the large decrease of the amount of oil produced by the new well, (it not having produced over 20 barrels a day after the first test,) and the extreme low price of oil, at that time not over $3.00 a barrel gross, all combined to discourage the enterprise. The proposition was
246 made to borrow $2,000, and to lay an assessment of $1,600, which was supposed would produce another thousand dollars, making in all the $3,000 required. A resolution to this effect was adopted, and Dr. Marbury was requested to negotiate a loan of $2,000.00. Dr. Marbury consented to act as a committee for that purpose, and the meeting adjourned to a future day to hear the result of the Dr.'s negotiation; about a week or ten days after, an adjourned meeting was held at the same place, (Stabler's counting-room,) at which were present all the board, with the exception of Hough, who I believe had returned to West Virginia. Dr. Marbury reported that he had made the endeavor to procure the loan as directed upon the property of the company and the pledge of the stock, and that he had failed to do so, as no person to whom he applied would have anything to do with oil. At that time several
247 hundred oil companies had been formed in Pennsylvania and a large number in West Virginia, a large majority of which had proved total failures, and everybody was afraid of oil enterprise. I knew that Dr. Marbury had about that amount of money on hand in bonds, and I suggested to Wm. D. Colt, the president of the company, that he should apply to the Dr. himself, as he was interested in the success of the enterprise. Both Colt and I applied to him, and used all the arguments in our power to induce him to do it, and he positively refused. I was very anxious myself to get the money, and I brought other influ-

ences myself to bear upon him, and after several days' discussion of the matter I succeeded in getting his consent to loan the money if he was convinced that the property was sufficient security, and he stipu-
248 lated that he should be satisfied of that by a personal inspection, and that the company should pay his expenses to go out there and examine it. My recollection is that I made this proposition to the board myself, and they immediately accepted it, as there was no earthly chance of getting money anywhere else.

Adjourned to Friday, at 2 o'clock p. m.

EDWARD C. INGERSOLL,
Examiner.

FRIDAY, *April 5th*, 1872.

Met pursuant to adjournment.

Present, Mr. Cox for defendant, and Mr. McPherson for complainant.

Examination of last witness, J. C. MARBURY, resumed, as follows:

The board of directors accepted the proposition to pay Dr. Marbury's expenses out to West Virginia to examine the property, and he and I started the next evening for West Virginia, and arrived at "Pe-
249 troleum" on the following morning, and there met Slicer, the superintendent, and Hough, one of the directors. We four then started for the well, which was about 3 or 4 miles across the country from the station. After we got at the well steam was raised and the well was pumped. We were informed by the superintendent that the well was pumping at the rate of 20 or 25 barrels a day. This was Dr. Marbury's first visit to any oil country, and I myself had only seen wells pumped two or three times, so that neither of us were any judges of the amount of oil produced by pumping, there being a great deal of water with the oil, and it required experience to judge of the capacity of a well. We all then went to the house of Esquire Cork and spent the night. In the morning we returned to the well, after visiting other property in the neighborhood, and from thence went into Parkersburg. Dr. Marbury was satisfied, from the representations of
250 Slicer and Hough and myself, that the property would be security for the loan, $2,000.00, and he agreed to lend the money. He paid a portion of it, $500.00 I think, to Slicer, the supt. of the company, at Hough and Lloyd's store, in Parkersburg, the day after the 2d examination of the well, the balance, after our return from Parkersburg, he paid to Stabler, the treasurer of the company, at Baltimore. I prepared the deed of trust under the directions of the company as its attorney, which was duly executed and the deed placed on record. About, or shortly before the note became due, Slicer, the supt. of the company, reported to the board of directors that the amount of the loan and the thousand dollars realized from the last assessment had been spent, and that the company was still in debt to the amount of $3,000.00, exclusive of the loan. When the note fell due it was presented for pay-
251 ment, and dishonored. After waiting some 2 or 3 weeks, and after having had several interviews with Mr. Colt, the president of the company, relative to the lik'lihood of the company's being able to pay the debt, Dr. Marbury was told by Mr. Colt, in my presence, that the company had no money, and that he did not know when or where it could get any money, and that the only chance of repayment that the Dr. had was by a sale of the property under the deed of trust, and that he had better sell. Dr. Marbury then applied to me about the matter, and I informed him that he would have to call upon the trustee

in writing to execute the provisions of the deed. He did so, and Mr. William Thomas, trustee, came to see me as the attorney of the company, and we together prepared the advertisements, and I as the attorney of the company selected the papers in which the advertisements should appear. The advertisements were duly inserted,
252 and the time for the sale was fixed for the 10th of July, 1867, terms cash. This was all done with the knowledge and consent of the president of the company, and the whole matter was reported to the board of directors prior to the sale. The board of directors sent me, as its attorney, to the property some ten days or two weeks prior to the day of sale, to look after its interests, see the condition of the property, and that the sale was fairly and properly conducted. I went out to the property and remained on it ten days previous to the sale, tested one of the wells at my own expense for a day or two, and found it produced little or nothing, certainly not enough to pay a fourth of the expense of running it. While there I examined some personally, and made inquiries about other oil property, and found everything
253 very much depressed, nearly all the oil-men bankrupt, their leases, engines, and other machinery being sold and bringing mere trifles compared to their original cost; one engine that I recollect now was sold for $75.00 that cost originally $2,000.00. Every one seemed to have lost all faith in oil enterprises, and no one seemed willing to have anything more to do with oil. It seemed to be the universal opinion that enterprise in oil would no longer pay. The price of oil was very low, not being more than $2.00 to $2.50 per barrel, and it cost a half dollar of that to get it to the station on the railroad. While I was testing the well George Jackson was the supt. of the company, and a man by the name Allen was one of the workmen under him; they were both present and saw me testing the well, Allen purchasing the coal and pumping it for me. I am the person referred to in the letters written by Allen and Jackson to the secretary, about that time, in which
254 they speak of Mr. Marbury's being there testing the well. On the morning of the 10th of July, 1867, Dr. Marbury, accompanied by Mr. William Thomas, trustee on the deed, appeared on the ground for the first time after the advertisement, having arrived from Washington that morning. It was about ¾ of an hour prior to the hour fixed for the sale. During the time that I was out there prior to the day of sale, I spoke of the sale to oil-men, urged them to attend and bid, and made my utmost efforts generally to have the property realize for the company as much as possible. I had the well shut down two or three days previous to the sale, so as to get as large an accumulation or head of oil as possible, to make the well present the best appearance. At the hour fixed, the property was put up by Mr. Thomas, and the sale commenced. The well was pumped and made to do its best. The different property belonging
255 to the company, consisting of one steam-engine, two or three tanks, and a lot of old tubing, and the lease itself, were pointed out to the bidders; besides Dr. Marbury, George Jackson, Mr. Thomas, and myself among those present, I recollect Col. R. E. Colt, Richard Joyce, Allen, before spoken of, John Freeborn, supt. of the adjoining lease, and I think a Capt. McGuire.

The first bid was made by Freeborn and was $500.00. The bidding was then carried on by Colt, Dr. Marbury, and myself, and at $1,100 was knocked down to Colt. The sale was perfectly fair and regular and in all things we complied with the requirements of the deed of trust; the property brought more than it could afterwards have brought within 12

months, as I think. Upon the same day I prepared a deed by Mr. Thomas, the trustee, and Colt, the purchaser, to Wm. Marbury, which Colt
256 signed in the afternoon of the same day, and Mr. Thomas executed after we returned to Washington. Dr. Marbury and myself went to Parkersburg the same evening and the next morning started for Washington, stopping at the well on our way. Dr. Marbury never acted as secretary and treasurer of the company to my knowledge; some of the directors suggested that I should act as secretary and he as treasurer, but neither of us did so. The Dr. had no more or better knowledge of the condition of the property and of the affairs of the company than any other member of the company, as I believe he had never been on the property but twice, and then for a brief period only.

Dr. Marbury after the sale offered to Colt, Hough, Stabler, and myself to allow them to share in the property, they to have an interest proportional to the amounts paid by each one on his, the Dr.'s, debt, and to contribute from the day of sale in the expenses of running
257 in the same proportion; the idea being that the debt should be the bases of a new company. Stabler stated that he would have nothing to do with it; that he had washed his hands of all oil matters. Hough, Colt, and myself were willing, but had no money. Hough had some interest in a patent gas concern, called "The Washington City Improved Gas-Light Co.," which he had on exhibition in my back office, in Plant's building on 15th st. He offered a portion of this to Dr. Marbury in my office and in my presence, instead of money, and wished Dr. Marbury to take it as payment of an interest in his purchase; the Dr. declined the offer. Dr. Marbury was very unwilling to make the purchase; was very anxious that the property should have originally been sold, and was willing himself to sell it to any one who would have paid the debt due him.

I heard a conversation between Dr. Marbury and Mr. Colt,
258 senior, on the ground on the day of the sale, prior to and during it, in which Dr. Marbury stated to Mr. Colt that if he became the owner of the lease he would like to have some one to assist in working it, and that his intention was to try to form a new company upon the basis above set forth. He did not express himself as intending to continue the old company at all, but gave me an entirely contrary impression.

At the time of the sale Stabler was in good credit, I believe. Wilson had the reputation of owning property, but never paid any assessment and always refused. Slicer's reputation, financially, was bad. Hough had no money and was in debt, and Wm. T. Hough had recently failed, as a member of the company of Bayne & Co. I had no money. Colt told me he had no money. The board of directors had ordered the sale of Wilson and Lloyd's stock for non-payment of assessments.

259 In February, 1867, Hough, Dr. Marbury, and myself called upon Mr. McPherson, the executor of Cochrane. He referred us to Mrs. Magruder, and after several conferences with Mr. McPherson and Mrs. Magruder, Mr. McPherson paid the assessment, but said he would not advise her to pay any more money for oil enterprises.

At the time the money was borrowed several of the directors offered to become personally responsible in proportion to their interest in case the property did not bring the amount of the debt.

Adjourned to Monday at 3 o'clock p. m., April 8th, 1872.

INGERSOLL,
Examiner.

MONDAY, *April 8th*, 1872.

Met pursuant to adjournment. Present, Mr. Cox, for defendant, and Mr. Beasten for complainant.

Examination of last witness, by Mr. Cox, resumed.

The discovery, by the Twin-Lick Co., that the Warner wells
260 were on their lease, was made in the summer or fall of 1868. When the discovery was made there was a meeting of the stockholders of the Twin-Lick Co. held, and the company's attorney-in-fact, George Jackson, was requested to submit the matter to Monroe Jackson, a lawyer, for his opinion as to what steps should be taken in the matter. [At the meeting it was understood and expressed by all the stockholders present that their rights to recover for trespass, and the value of oil taken out by Warner, was limited to the time between the striking of Warner's well and the day of the sale in July, 1867.]

(Part in brackets objected to by Mr. Beaster, for complt., as secondary evidence, the minutes not being produced.)

Nothing further was done by the company, as no money could be raised to fee lawyers. But as Dr. Marbury had already brought
261 suit for the same cause, and for damages accrued after the day of sale, and after he came into possession of the property, the company awaited the result of that suit, and to this day, to my knowledge, they have taken no further steps in the matter. This was generally agreed upon at the aforementioned meeting.

Q. Did you ever hear of any understanding on the part of Dr. Marbury and the other members of the company, either before or after the sale, that he in any contingency was to return this property to the Twin-Lick Oil Company?

Ans. I never heard of any such understanding, but, to the contrary, know that Dr. Marbury claimed the property from the day of sale as his own, and that if any one was to have any interest it was a matter of favor by the Dr. upon the basis heretofore stated. The time fixed by the doctor in which any of the company could share with him upon the basis of his debt was sixty (60) days.

262 [George Jackson told me he was;] (part in brackets objected to.—E. C. I.;) and I know that he did act as attorney and agent for Dr. Marbury, since the sale. I know that Dr. Marbury spent his own means and borrowed money to work the property with, and I know he has continued to work it. For two years after the sale I know that he made no success with the property. Up to the summer of 1869 the belief of all oil men operating in oil in Western Virginia was that the only oil procured in the immediate locality was the heavy or lubricating oil, which was obtained from a depth of from 300 to 500 feet, and that there was no oil to be found at a lower depth than 500 feet. In the summer of 1869 the owner of a well in this neighborhood, in experimenting with his well, sunk it to about 1,000 feet, and discovered a deposit of light-oil. Up to this time none of this oil had been
263 found nearer than "Burning Springs," about 30 miles distant. Dr. Marbury immediately ordered an abandoned well on his place to be sunk a thousand (1,000) feet, and in that well was found in the early part of August, 1869, a large deposit of light oil, which made the enterprise a success.

I don't think I had any personal interview with Mrs. Magruder about the Twin-Lick Co. I did have with regard to the "Eaton Station" well, I think; it was in the summer of 1868, I think. I am not positive about the date.

A meeting of the stockholders was called in the summer or fall of 1870; a new board of directors was elected. At a meeting of the directors subsequently held, I think Oscar R. Hough offered a resolution to employ counsel. I think it was about that time that I first heard of any claim set up by the company, or any individual member of it. I think Hough was the first man who broached the subject. I
264 was present at a meeting of the directors of the company, held a few days after the sale. I reported that the property had been sold, and had not brought enough to pay the debt. Dr. Marbury stated that he had purchased, and then made his offer to allow the others to participate upon the basis before referred to. He did this at the meeting, and after it. I think he told them the amount of the debt and the probable expense of running it, so that they could act understandingly in declining or accepting his offer; but he did not make any report as agent or trustee or anything of the sort. I never knew any minutes of proceedings to be read to the board of directors at its meetings.

I own an eighth ($\frac{1}{8}$) of the Twin-Lick Co.'s interest. In the event of their recovery I shall be entitled to one-eighth ($\frac{1}{8}$) of the proceeds. I never have had any interest, actual or contingent, in Dr. Mar-
265 bury's purchase, and don't expect to have any.

Cross-examination by Mr. Beasten:

Dr. Marbury compromised his suit against the Volcanic Company on account of the pumping by the Warner well. His claim was $15,000, I think. The Volcanic Co., as a basis of compromise, gave him the Warner lease at a reduced royalty. The' paid him no money. Th'y gave him the Warner lease for 15 years, No. "36" lease for 15 years, which was an additional 5 years on each lease. They made these basis according to their own plat, which he had contended in his suit was wrong. By this arrangement all 4 of the wells were put in their proper positions. They, the Volcanic Co., made no claim for oil that had been produced from either of the wells, except what royalty was due. In this new arrangement of boundaries the Volcanic Company re-
266 ceived no well that had been sunk. Hough, Colt, and myself were present when the 60 days' limit to the offer was made, and the Dr. invariably fixed the limit whenever in my presence he made the offer. The greatest production per day of heavy oil since Dr. Marbury has been running the wells has been, I think, 10 or 15 barrels. I have been there since the sale but (3) times, and each time that I was there it was about other matters, and I couldn't tell by looking at the well being pumped how much it was pumping. I have no practical experience in judging of the capacity of a well by merely seeing it pumped. I was out there 4 or 5 times before the sale.

Q. Were you on the lease at any time between the time when you went with Dr. Marbury, when he went to ascertain the value of the property before making the loan, and the next time when you went and remained, just before the sale?

267 Ans. I was not. I have been in other oil regions. In Venango County, Pennsylvania. I was at Petroleum Centre once for about a week. I have never been in the oil business, except as members of these different companies. I don't think the sale was reported to the circuit court of Wood County, West Virginia; don't know that that is the law. I know that George Jackson acted as the Dr.'s agent and attorney by his actions, giving directions, and assisting him on one occasion in making up his monthly report; seeing his reports when made to Dr. Marbury.

Q. In what capacity did you become conversant with these transactions?

Ans. I was a visitor at his house, and spent some two weeks there. I was in West Virginia on professional business, and made his house my headquarters. When the Dr. acted as a committee to negotiate the loan of $2,000.00, he stated, I think, to the meeting that he had applied to Henry S. Davis to lend the money, and that he declined.

268 Q. What were those "after-influences," stated in your examination-in-chief, brought to bear upon Dr. Marbury to make the loan of two thousand dollars?

Ans. Dr. Marbury has a cousin, Mr. William Fitzhugh, in whose opinion he had confidence, and I set him on him; under his advice the Dr. loaned the money.

Q. At the time of the loan of the $2,000.00 there was also an assessment of $1,600.00, upon which you say $1,000.00 was paid; by whom was it paid, and did those who paid pay their assessments in full?

Ans. Mr. Cochrane's estate and Dr. Marbury paid in full, amounting to $300 on the 2; the Dr. paying $100.00 and Mr. Cochrane's estate $200. As to the others I know nothing, except from the books and what I heard.

Q. State whether you were the permanent counsel of the Twin-Lick Co., regularly employed, or whether you acted specially in those

269 particular matters you were called upon to attend to?

Ans. All legal matters of the co. were referred with the request to attend, and my recollection now is that when the sale was spoken of by Colt, the president of the company, he requested me to look after it.

Q. Did any of the stockholders or directors say anything to you on the subject?

Ans. I don't recollect that they did, but the board of directors were notified of the time of sale, and at a meeting I was employed to go out there and look after its interests, for which service I was credited $100.00 on the assessments then due from me.

Q. Did Dr. Marbury ever request you to look after his interest?

Ans. He did not. I don't think I had any communication with him while I was out there.

Adjourned to Tuesday, April 9th, at 12 o'clock m.

EDWARD C. INGERSOLL,
Examiner in Chancery.

270 TUESDAY, *April 9th*, 1872.

Met pursuant to adjournment; present, Mr. Beasten for compl'ts.

Cross-examination of J. C. Marbury continued:

Q. Did you have any communication with Dr. Marbury at any time before you went out, or after, with regard to the subject-matter of the sale?

Ans. Not to my recollection.

Q. Did he ever mention the matter of the sale to you before it took place?

Ans. He may have spoken about whether the property would bring enough to pay his debt, and may have expressed his fears that he would be compelled to buy it in, in order to save himself. I have no recollection positively upon the subject, but I think it very likely he did express himself in the way I have mentioned. I know that on the day of the

sale he was unwilling to purchase, and was anxious that some one else would give money enough for the property to pay his debt.

271 Question. What did you consider was sold at the time of sale?

Ans. Everything owned by the company in Western Va. I mean by that its franchises, the lease, stock of oil on hand, tubing, tanks, engine, &c.

Q. What did you consider became of the stock of the company?

Ans. I had no particular thought about it, but if I had have thought about it I would have considered the same as remaining in the hands of the original holders as so much waste paper. I did not consider mine as worth anything.

Q. That being so, explain how you considered yourself remunerated by being credited one hundred dollars on the assessment mentioned in your examination heretofore for services rendered in the actual matter of sale?

Ans. The assessment was a debt which I owed the company,

272 and the one hundred dollars due to me was offset against my debt, and I could make no objection, as the company had no money to pay me, and I could not have collected it if they had.

Q. Do you, then, mean to say that the expense of going to the oil-well and of remaining there, and particularly the hotel-bills incident to the excursion and the expenses in returning, were paid by you from your own private funds?

Ans. They were; and it was not the first time that I paid my own expenses in excursions of that sort in looking after the interests of the company, and for which I was never re-imbursed and never made any charge for. I know that several other members of the company did the same thing.

Q. Did you or not stop with Mr. Thomas, the trustee, at Oakland, for a few days, on your return after the sale?

273 Ans. I did not. I parted with Mr. Thomas at Petroleum on the afternoon of the day of sale, and went into Parkersburg, where I spent the night; and I did not see him afterwards until I returned to Washington. I think I got back with him.

Q. Did Mr. Thomas in his communication with you in reference to the advertisement of sale, &c., mentioned in your examination in-chief, regard you as the agent of the company or as the agent of the defendant?

Ans. I cannot say what he thought, but from his actions I judged that he regarded me as the attorney of the company.

Q. Were you present at a meeting of the company, referred to in your examination-in-chief as having taken place in the fall of 1868? State the date of that meeting as near as you can, and whether a stock-

274 holders' or directors' meeting, and give the names of all the parties who you know were at that meeting.

Ans. I was present at a meeting. I think it was held in Sept., 1868. It was a stockholders' meeting, called at my instance, to take into consideration the question against the Volcanic Co. for damages for trespass. There were present Mr. Jno. D. McPherson, representing the estate of Mr. Cochrane, Oscar R. Hough, William D. Colt, Dr. Marbury, I think, and myself. I am not positive whether Stabler was there or not.

Q. What were your expenses attending the testing of one of the wells prior to the sale?

Ans. Not a great deal; some $10.00 or $15.00 or $20.00; somewhere in that neighborhood. I never kept particular account.

Q. Did the company instruct you specifically to test the well? Did
275 you do it of your own motion, or was it at the request or with the knowledge of the defendant?

Ans. It was entirely of my own motion. I was green at the business, and thought I knew more than the men who had been working the wells, and did not believe that the well was in as bad a condition as they had reported it. Dr. Marbury knew nothing about it until afterwards.

Q. When did you tell him that you had tested it?

Ans. I think it was after the sale and after we left the place.

Q. What instigated you to test it?

Ans. I did it for my own satisfaction. I thought, possibly, that the well might be better than represented, and if so, that the property would produce more money at the sale and benefit the company.

Q. What were the terms of sale?

Ans. Cash.

276 Q. What was your highest bid at the sale?

Ans. I think I bid $1,000.00, (one thous. dolls.)

Q. How did you expect to pay for it if, as stated in your examination-in-chief, you had not money enough to pay your pro-rata proportion of Dr. Marbury's claim against the company and to accept the offer which you state was made by him?

Ans. I did not expect to pay for it at all; but was acting as the attorney of the company, and as a by-bidder for the purpose of running the property up.

Q. What was said at the sale to Freeborn about starting the sale?

Ans. I don't know that anything was said to him by any one.

Q. Did he make more than one bid?

A. I don't know that he did. He commenced by saying that he would give $500.00. I did not notice him closely.

277 Q. Who were present at the conversation of Dr. Marbury, stated in your examination-in-chief, with reference to forming a new company?

Ans. Dr. Marbury and Mr. Colt (R. E. Colt) were standing together talking, and I being near by overheard the conversation. It was a conversation between those two only. It was at the sale, and they were standing a little to one side.

Q. Who were the directors who told Dr. Marbury that they considered themselves individually responsible for all deficiencies on account of Dr. Marbury's loan to the company?

Ans. At the time we were urging Dr. Marbury to make the loan, Colt (Wm. D. Colt) and myself offered to become responsible individually

Q. In your interview with Mr. McPherson, mentioned in your
278 examination-in-chief, about the payments of assessments, did he tell you that he would advise the parties in interest under Mr. Cochrane's will not to pay any more assessments, or would not advise them to pay, but would leave them to their own judgment?

Ans. My impression *is* from his conversation was that he would advise them not to pay any more.

Q. Did he not say anything to you about leaving it to the judgment of the parties in interest?

Ans. I don't think he did.

Q. State specifically what your one-eighth interest, mentioned in your examination-in-chief, in the stock of the company amounts to. Whether it is conditional or absolute?

Ans. If you mean by that whether it is hypothecated, it is hypothecated or is given as security for a debt that I already owed, and it had

279 prior to that time and during the working of the company been hypothecated. I mean before the sale.

Q. To whom is it pledged?

Ans. Dr. Marbury now holds it.

Q. State as near as you can the amount of your indebtedness to Doctor Marbury for money loaned and advanced to you on your account.

Ans. The indebtedness amounts to between three and four thousand dollars, with three or four years' interest.

Q. Is that the full amount of the pecuniary claims of Dr. Marbury against you?

Ans. I believe it is.

Ques. What other claims are against this stock besides the claim of Dr. Marbury, and what amount?

Ans. A bill in chancery has been filed by the executors of John F. Cochrane's estate on a judgment obtained by him against me for a little over $6,000.00, (six thous. dolls.,) with interest from, I think, about Jan'y, 1867.

280 Q. Have you any other means of liquidating this indebtedness besides your interest in this stock?

Ans. I have not, and would be very glad if the Twin-Lick Co. would pay it for me.

Q. Are you any relation, and if so, state what relation, to the defendant?

Ans. I am his brother.

Redirect examination of last witness:

Q. State when the money which you say you owed Dr. Marbury was loaned.

Ans. The larger portion of it, I think, some time in the year 1867-1868, that is, about two-thirds of it. The balance was loaned to me some time in the year 1869.

Recross-exam'n of last witness:

Q. Are you under any pecuniary obligations of any kind to the defendant since 1860, arising before or after that period?

281 Ans. In the latter part of 1870, or in the early part of 1871, and after the hypothecation of the stock, he paid somewhere in the neighborhood of twelve hundred dollars (betw. $1,200.00 or $1,300.00) on my account, of which I repaid him $879.00, or thereabouts, being the amount of legacy that was paid to me in the summer or fall of 1871.

J. CARTER MARBURY.

Sworn to and subscribed before me the ninth day of April, A. D. 1872.

EDWARD C. INGERSOLL,
Examiner.

Adjourned to Friday next, April 12th, at 12 m.

Testimony of Dr. Wm. Marbury for def'ts.

FRIDAY, *April 12th*, @ 12 m.

Met pursuant to adjournment. Present, Mr. Beasten for pltffs. & Mr. Cox for defendant, whereupon

Dr. WILLIAM MARBURY, the deft., having been sworn, says:

282 Ques. State how you became connected with the "Twin-Lick Oil Company," and what you knew of its operations down to the spring of 1867.

Ans. In January, 1866, I acquired an interest by purchase in lease No. 36 of the Volcanic Coal and Oil Company's land. I have no personal knowledge of the operations or works of the company on that lease until January, 1867. I became a member of the organization known as the Twin-Lick Oil Company, which is the plaintiff in this suit, in July, 1866. I would here state that according to my understanding it was contemplated from the start that a stock company should be formed, based on the respective interests held by the different parties mentioned in the deed from George Jackson to William D. Colt, J. Carter Marbury, B. G. Wilson, O. R. Hough, and others, to whom those parties conveyed certain portions of their interest. There was a meeting
283 held in Parkersburg, West Virginia, by certain of the parties referred to—in July, 1866—for the purpose of formally organizing the company, by applying to the proper authorities of West Virginia for a charter, a copy of which is filed in the cause as complainant's Exhibit A. In due time I received my stock under this charter. It was reported to me by members of the company that the first well was struck on or about the 1st of July, 1866. It was stated to me at the time, which I have reason to believe was an exaggeration, that the well produced at first at the rate of about fifty barrels per day. It was also reported to me in the same manner, and by the same parties, that a second well was struck in December, 1866, which was represented as producing on the first day two hundred barrels of oil.

In January, 1867, I was elected a director of the company in
284 the place of Jno. T. Cochrane, deceased. I attended a meeting of the board about the 1st of February following, and a report was submitted from the superintendent, Mr. Slicer, that the debts of the company amounted to about three thousand dollars; and Mr. Stabler, the treasurer, reported that there was no money in the treasury. It was considered and conceded impossible to raise the three thousand dollars by assessment. A resolution was thereupon adopted authorizing a loan of $2,000.00, to be secured by a deed of trust upon all the property of the company, and also by a pledge of the stock of the company. A resolution was also then adopted appointing me a committee to negotiate that loan, which app'tm't I accepted.

I should have stated that there were present at the meeting William
285 D. Colt, the president of the company, Jordan Stabler, sec't'y and treasurer, J. Carter Marbury, and myself; and the meeting was held in the counting-room of Jordan Stabler.

I endeavored to raise the money for the company, but without success, and I reported this result to Mr. Colt, president, and afterwards to the board at the next meeting. J. Carter Marbury, knowing that I had that amount of money, solicited me to make the loan myself, in which solicitation William D. Colt joined. I refused absolutely to do so, and asked Mr. Colt why he did not make the loan himself. He replied that he had no money, or else he would. I asked Mr. Colt then if he could not borrow the money from Jay Cooke & Co., with whom I supposed he was very friendly. He stated that it would be useless, and that he could not borrow the money from that quarter. I again stated that I would
286 not let them have the money. These solicitations to lend the money were renewed to me, from time to time, for ten days or two weeks. At the expiration of that time, I met with Mr. Wm. M. Fitzhugh, of Virginia, in whose judgment in business matters I had confidence, and in an interview with him and J. Carter Marbury, in which this subject of a loan to the Twin-Lick Company was discussed, Mr. Fitzhugh stated that, from the representations made to him of the valu-

of the property offered as security, that I would be abundantly safe. I then concluded to make the loan, on condition that I should be satisfied, from personal inspection of the wells and other property belonging to the company, that I would be sufficiently secured, and also that the company should pay my expenses to the wells and back. This was accepted by the board, and I started for the wells the next evening, accompanied by J. Carter Marbury. We met Mr. O. R. Hough in West
287 Virginia, and we met there also Mr. C. H. Slicer, and we four went to the wells together. Mr. Slicer was the superintendent. When we arrived on the ground the well which was last struck, known as "No. 2," was pumped, and Mr. Slicer represented to me that the production amounted to twenty-five barrels a day, which, from my knowledge acquired by subsequent experience in the oil business, was incorre't. I am satisfied that the well at this time did not yield over ten barrels a day, judging from the appearance of the fluid pumped; but, as I then knew nothing of the oil business, it being the first time that I ever saw an oil-well pumped, I then accepted Mr. Slicer's statement as true. The royalty due by the company to the Volcanic Company amounted to one-fourth of all the production, and there was
288 a subroyalty of one-eighth, owned in equal parts by George Jackson and B .G. Wilson. This would leave, after paying royalty—I mean at the time of this visit to the wells—somewhere about seven barrels as a daily net yield to the Twin-Lick Company. Oil was worth, at the time mentioned, two dollars and a half per barrel, delivered on the Baltimore and Ohio Railroad. The expenses of transportation to the railroad amounted to about fifty cts. per barrel. So the net yield of seven barrels, turned into money, would amount to fourteen dollars, as the producer had to pay the expenses of transportation to the railroad. The expenses of the company in running the well were $5.00 per diem to the superintendent, $5.00 per diem for engineers if the well were run night and day, which was usually the case, and was the case I think
288½ at this time; it being necessary to run them night and day to keep the accumulation of water from preventing the flow of the oil. The expense per diem for fuel, running night and day, was about $4; the necessary expenses thus amounting to $14, without counting what might be necessary for repairs, &c.

I mention these facts to shew that the expenses of running the well at the time of this visit to it exceeded the receipts, if my estimate that the yield of the well was only ten barrels at that time is correct—and I believe that that was the yield of the well at the time. With the little or no knowledge that I had at that time of oil-wells, and trusting to Mr. Slicer that the production was twenty-five barrels a day, I made up my mind to lend the two thousand dollars to the company on the security offered.

289 I paid five hundred dollars to Mr. Slicer in Parkersburg, and fifteen hundred dollars to Mr. Stabler in Baltimore on my return. I omitted to state that at the meeting at which the loan of $2,000.00 was authorized, an assessment was levied amounting to $1,600. Of this assessment about $1,000.00 was collected, making, with the loan, the $3,000.00 required.

In four or five weeks after the money was paid to Slicer & Stabler, Mr. Slicer reported that the debts of the company still amounted to $3,000.00, and the money which had been raised by loan and the last assessment was all gone, having spent all the money that was paid to him and to Stabler.

Early in May, 1867, I went as a delegate to the medical association

which met in Cincinnati May 7th, 1867. While there I wrote a note to Mr. Slicer, asking him to meet me at Petroleum, or at Twin Lick,
290 as I expected to visit the wells on my return from Cincinnati. I did go to the wells somewhere about the 14th of May, but Mr. Slicer was not there. I was told that he was at Wheeling. I found the well "No. 2" idle. "No. 1" had been virtually abandoned as exhausted for some time before the discovery of oil at "No. 2."

The board had entered into a contract to have "No. 1" bored one hundred feet deeper. The contractor, a man named Mussetter, got the boring-tools fast in the well, and during this visit in May he was engaged in the effort to get them out.

Mr. Allen, an engineer employed by the company, informed me that the property was to be sold the next day for taxes, by the sheriff, amounting to $43.00. This was all the knowledge that I obtained by this visit to the well. I left the same day, and arrived at Eaton Stat'on, on
291 the Balto. and Ohio Railroad, and there I wrote a check for $43.00, the amount of the taxes due, and sent it to George Jackson, of Parkersburg, with the request that he would at once see the sheriff, or the proper officer, so as to prevent the sacrifice of the property, by paying the taxes; which was done. On my return I reported Slicer's negligence to the board, and he was removed from his office as superintendent. At this time Mr. Stabler refunded to me the $43.00 I had paid for taxes.

Just about this time, on my return from Cincinnati, the note which had been given me by the company, dated the 15th of Feb'y, 1867, and for which a deed of trust had been made to William Thomas to secure me, (the said deed covering the property of the company,) matured. In two or three weeks after the maturity of the note, no notice having
292 been taken of it by the company, I called on William D. Colt, the president, and asked him what was to be done by way of settling or paying it. He said the company had no money, and that he did not expect they would have any, and that I had better see the property and make what I could out of it towards paying the note. As the property, which was my security, was depreciating from neglect and other causes, I concluded that it was best for me to take his advice. I accordingly called on Mr. Thomas, the trustee, to execute the provisions of the deed of trust. He accordingly proceeded to take the proper steps to do as I requested, and the 10th of July, 1867, was fixed as the day of sale.

On the 18th of June, 1867, Mr. Allen, one of the engineers, who was the only party representing the company at that time at the well,
293 as I now best remember, having before frequently written that the property required the presence of some one with authority from the company for its protection, and that a number of suits were threatened by creditors of the company, Colonel George Jackson, a man of skill and experience in the oil business, was appointed superintendent and attorney-in-fact to represent the company. He accepted the appointment and entered upon his duties.

J. Carter Marbury about the first of July was appointed by the board of directors (objected to, unless minutes of company produced) to look after the interests of the company before and during the sale. I went out to attend the sale with Mr. Thomas, the trustee, timing our departure from Washington so as to reach the wells on the morning of the sale.

294 Richard E. Colt went with us from Petroleum, where he was then residing. I was then undetermined to buy the property until the morning of the day of sale, althoug' I had entertained the idea of doing so previously, and it was known to all the members of the

board of directors that I might bid at the sale. I requested Mr. Richard E. Colt to bid the property for me, and just before the sale I mentioned to him that it was my intention to invite certain members of the company to participate with me in the working of the property. In other words, it was my wish and purpose to form a new company, to be based upon the debt which the company owed me. At the same time I felt myself at liberty to invite other members not connected with the company, should I become the owner of the property. The well "No. 2" was pumped just before the sale, the different property belonging to the company pointed out by the trustee, and the sale commenced. There were present on that occasion Mr. William Thomas, John Freeborn, George Jackson, George W. Allen, Richard J. Joyce, J. Carter Marbury, Richard E. Colt, another man, whose name I do not know, and myself. There might have been others, but I do not recollect any others.

295

The first bid was $500.00, and was made by Freeborn, and after bidding by several parties, it was struck off to Richard E. Colt. Mr. Richard E. Colt assigned to me the purchase, and Mr. Thomas, the trustee, made the conveyance to me after we returned to Washington City.

I left the wells that same evening in company with J. Carter Marbury and Mr. Thomas, the trustee.

We went to Petroleum, where Mr. Thomas was left, and my brother and myself went to Parkersburg by the next train—the evening train. The next morning we stopped by the wells, on our way home. I employed George Jackson then as my superintendent, and paid him $160.00 towards carrying on the wells at once. We left the evening of the last-named day for Petroleum, and took the night train for Washington. Mr. Thomas had left in the morning by the way-train, and he did not reach Washington until after my brother and myself had arrived—he having stopped one night at Grafton and one night at Oakland.

296

I think there was a meeting held of the board of directors of the Twin-Lick Company shortly after my return from the sale, at which I made the offer of which I have spoken, inviting those who were present to participate with me in the purchase, (remarking that if they would pay the amount of my debt I would go out of it;) that if any one wanted to participate with me in the property he could do so by assuming a proportion of the debt corresponding to the interest taken; and that if any one should accept the proposition, he should also reimburse me for the expenses of running the works from the time of purchase, according to the proportion of such interest taken.

297

Mr. Colt replied that he would like to do so, but that he had no money, and Mr. Hough and J. Carter Marbury said the same thing. [I do not know whether Mr. Stabler was present or not, but I knew, for he had told me so, and the letters from him, filed in this cause, shew that he had that he would have nothing further to do with oil.]

(The part above between brackets objected to.)

I could not say that my impressions as to Stabler were made at th meeting.

298 Adjourned to Saturday, April 13th, 1872, @ 12 m.—the examinations under the last date including two sessions.

SATURDAY, *April 13th*, 1872—12 *m.*

Met pursuant to adjournment. Present, Mr. Cox for deft. and Mr. Beaston for compl't.

Continuation of Dr. Wm. Marbury's direct examination:

The offer which I made I had agreed to keep open for sixty days, counting from day of sale. I repeated the invitation afterwards to Mr. Stabler in Baltimore, and he declined the invitation, remarking that he would make no further investments in oil. I repeated the invitation also to Mr. Oscar R. Hough, in J. Carter Marbury's office and presence, and Mr. Hough offered to give me for an interest in the property stock in a certain company known as the Washington Improved Gas-
299 Light Company, which I refused, saying that I would take nothing but money, and on the terms mentioned.

The statement made by O. R. Hough, in giving his testimony in this cause, that this stock was offered to me, by him, to meet his alleged liability to me as possessor of the property for the expenses of working the same, is wholly untrue. The parties to whom I made the offer before mentioned were the most active members of the company and took most interest in its affairs, and I concluded that should they decline the offer it would be useless to make the offer to the others; besides, the others were, with the exception of those representing the Cochrane interest, absent from this District. The persons representing the Cochrane interest were the sister and widow of the deceased Cochrane.

[Mr. McPherson, executor of Cochrane, told me that he would
300 advise these ladies not to pay out any more money on account of oil. He had told me this prior to the sale. This, and the circumstance that they were ladies who would probably not desire to enter into such business, prevented me from making any offer to them.

I considered myself the absolute owner of the property from the day of sale, and was so considered by all others, as far as my knowledge goes, and I felt that I had all the privileges of such ownership. I invited others who had never been members of the company to participate with me in working the property, on the same terms which I have mentioned before. Of these I remember N. W. Burchell, Doctor F. B. Culver, Dr. S. J. Cockerille, Dr. William G. Palmer, and William Thomas, all of whom refused the offer, declined the invitation.]

(The aforesaid between the brackets objected to as being res inter alios acta.)

301 I did not consider the property valuable at the time of the sale. The production of oil was small; only one well was yielding oil, and that hardly enough to pay expenses, and judging from the experience of "No. 1," the exhausted well, I had every reason to suppose that "No. 2" would soon become exhausted also.

The price of oil was low. There were due for royalty to the Volcanic Company about four hundred barrels of oil, the Twin-Lick Oil Co. never having paid any royalty to the Volcanic Co., and this was a lien upon the property. I had no experience in the oil business, and I was afraid that the time and attention that would be required to attend to it would interfere with my proper business, the practice of medicine. I therefore felt that I had gotten into a difficulty by purchasing the
302 property, and mention these facts to shew why I was willing to share with others in the working of it, or to relinquish the whole purchase if thereby my debt would be paid.

All parties whom I had invited to participate with me having declined, and not believing that I could induce any one to share it with me, I determined to enter upon the hazardous enterprise alone. I executed to George Jackson, the superintendent whom I appointed on the day of sale, a power of attorney to represent me in West Virginia in all matters appertaining to the oil business. This power of attorney, as also

the power of attorney which he held prior to the sale from the Twin-Lick Oil Company, were duly recorded in the clerk's office for Wood County.

(Objection to testimony touching the powers of attorney unless certified copies of the same are produced. The defendant accordingly files the or'g'ls, marked "P. 1 & P. 2.")

303 About the middle of September, 1867, I, as proprietor of "lease 36," met by app'tm't Mr. William C. Stiles, jr., then president of the "Volcanic Coal and Oil Company," at the counting-room of Jordan Stabler, in Baltimore. The object of the meeting was to come to some arrangement or understanding for the settlement of the back royalty due by the "Twin-Lick Company" to the Volcanic Company, for which Mr. Stiles held me accountable. I agreed with him, Mr. Stabler not taking any part in the discussion on this point, although present, to pay the four hundred barrels of oil when I should be able.

The well produced—No. 2 being the only well producing—from three to fifteen barrels per day at various times. For days together sometimes it would produce only water.

The price of oil was about $3.00 per barrel in the latter part of August.

304 I sold Mr. Jordan Stabler one hundred and sixty-five barrels, being the first oil produced. I should have stated before that there was no oil on hand on the day of the sale belonging to the company, what there was then on hand having been taken to satisfy the one-eighth subroyalty before mentioned.

I wrote to Mr. Stabler from the wells, in response to an offer to buy oil from me, to fill a contract entered into by the Twin-Lick Company through him, that I would let him have the 165 barrels of oil at the rate of $3.00 per barrel, in tank, provided he would personally responsible for the payment to me of the same, knowing as I did that the Twin-Lick Company was virtually defunct and bankrupt.

He accepted the oil on these terms. It was sent to him, but he has not paid me in full to this day for the same, there being a balance
305 due to me at this time of $88.00 for the oil, and freight on the same. He refused to pay me, saying that he was not personally responsible, although I shewed to him on his file the letter in which I held him responsible for it.

In December, 1867, the Volcanic Company having pressed me repeatedly for the payment of the back royalty, I settled with them by the payment of $1,000.00 by way of commutation for the back royalty due by the "Twin-Lick Company," having been obliged to borrow the money in order to satisfy this claim.

The price of oil in the fall of 1867 amounted to about $4.00 per barrel, but the production of the well gradually diminished. With the hope of getting more oil I concluded to have the original well, No. 1, bored 100 feet deeper. This was done, but proved to be a failure. In
306 the spring and summer of 1868 oil advanced to ten dollars per barrel, but there was very little produced by the well.

In August, 1868, I visited the well and was informed by George Jackson, the superintendent, that the surveyor of the Volcanic Company had been surveying an adjoining lease, and he, Jackson, requested the surveyor to run off the lines of the "lease 36" according to the metes and bounds described in the original lease from Volcanic Co. to George Jackson. This was done, and it was discovered that the two Warner wells were embraced within the lines of "No. 36," but that "No. 2 well," which had been worked by myself, and the "Twin-Lick Company" be-

fore me, was thrown outside of the lines of "lease 36." I have a diagram shewing the true state of the case, and file the same here; (it is marked "Defendant's Exhibit Diagram.") This was traced from a diagram furnished to me by the clerk of the Volcanic Oil Company.

307 (This diagram is objected to as being secondary evidence.)

The diagram filed before by Mr. Hough is not correct.

This was my first knowledge of the Warner complication. I had not the most distant idea that these wells were upon lease 36 until this period. I instituted proceeding in law against the Warner Oil Company for trespass, as I felt that I had no right to any other land than what was embraced in the original deed to Jackson, and I wished to establish the boundaries to that which I was legally entitled. I wrote word to my brother, Carter, informing him of the facts, and that I considered the "Twin-Lick Oil Company had a claim for damages on account of the oil pumped from the Warner wells up to the day of sale under the deed of trust, and that I should claim any damages that might be due

308 on the same account from the day of sale." The Volcanic Company fathered the suit brought against the Warner Company, and entered into negotiation with me for the compromise of the same. They, the "Volcanic Co.," finally offered to secure the Warner lease and convey*ed* it to me if I would pay $1,500.00 for the machinery and other property on the lease, to make a new lease for 15 years of this Warner lease from May 1st, 1870, I to accept the lines of lease "36" as laid down on the Volcanic plats, and to withdraw the suit.

George Jackson, according to this compromise, was to receive $3,000.00 worth of oil for his one-sixteenth subroyalty, to be paid out of the royalty which was to be pumped from lease 36, which royalty would otherwise be paid to the Volcanic Company.

Jackson and myself both accepted the terms of compromise of-

309 fered. I paid the $1,500.00 in money and received new deeds for the respective leases "36" & "61," (sixty-one,) or the Warner lease. Both deeds, I think, were dated the 1st day of May, 1870. In the spring of 1869 the well known as the "Barbour well," in the same neighborhood with my own property, was bored 500 feet deeper, and a vein of light oil was struck, producing 100 barrels a day. This was the first knowledge obtained by any one that light oil existed in this region, all the oil before that was obtained being heavy or lubricating oil.

I gave orders in May, 1869, to have my well, "No. 1," the original well of "36," which had been abandoned as exhausted, bored to the depth of 1,000 feet, it then being about 500 feet deep. On the 7th of Aug., 1869, a vein of light oil was struck, yielding at first 150 barrels of oil a day. This yielded me the first profit that I derived from the

310 property after purchasing, in July, 1867. I had expended, over and above the proceeds of oil to meet expenses, about $3,500.00, including $1,000.00 which I had paid for the back royalty due by the Twin-Lick Company.

There was at this time, in Aug., 1869, on hand some heavy oil in tanks, which, if sold at the current rates then, re-imbursed to me a part of the $3,500.00 referred to. How much oil there was, and what it would have produced, I am not able now to state.

This well proved very valuable during the following year, yielding to me about $30,000.00 or $40,000.00 for that year. In September, 1870, I received the first intimation from any quarter that my title to the property was questioned, or that any claim was to be made upon the property, when I received a note from Mr. McPherson stating that certain parties formerly interested in the property thought they had some

311 claim upon it, and inviting me to meet him, Mr. McPherson, with a view to compromise.

I should state that on one occasion I happened into Mr. Stabler's store in Balto., during the winter following my success; that he pretended to make some claim for share of the profits, which I treated as a jest on his part.

Question. State whether you were acted as secretary or treasurer of the Twin-Lick Company?

Ans. I am quite positive that I never acted as secretary or treasurer. I never had any books or papers of the company in my possession or charge. I do not recollect that I was ever notified of having been elected as secretary or treasurer. I have not the slightest remembrance of anything in reference to the subject except what has been called
312 to my attention in a letter from me to Stabler, filed by Stabler with his deposition in this cause, and in which letter I stated that I had resigned the office. I presume that what I called my resignation amounted to a declination of the office, as I know I never assumed its duties.

Ques. State whether you ever agreed with the Twin-Lick Company, before or after the mortgage, that you would or might buy in the property under the mortgage for the benefit of the company, or to hold it until your debt should be satisfied and then return it to the company, or made any agreement equivalent or similar to that?

Ans. I did not, nor was there any such understanding. The first intimation that I had of any such proposition having been claimed to be asserted being from Jordan Stabler is his deposition in this cause.

313 Ques. What were the debts of the company at the time of the foreclosure of the mortgage or sale of the premises?

Ans. I file here a statement showing the liabilities of the Twin-Lick Oil Company, due July 10th, 1867, and the ostensible assets. This statement is marked "Defendant's Exhibit W. M."

Ques. What efforts were made and what steps taken, if any, to pay off the debts of the company?

Ans. There were several meetings held for the purpose of devising means to pay one debt, the only one that I remember, and that was the debt due the Volcanic Company for oil purchased. At the meeting in Stabler's counting-room, at which I met Mr. Stiles by appointment, to come to some understanding about the back royalty due by the company, Mr. Stiles then proposed, after settling about the royalty, consulting with Mr. Stabler and myself, as members of the oil company,
314 about the debt due for the oil purchased by the company, and offered to compromise if the company would pay him $840.00. I might here state that I considered the Twin-Lick Company had an existance after the sale only for the purpose of winding up its affairs. Nothing was done to pay off this $840.00 except that Mr. Stabler and myself each offered to pay our proportionate share of the debt according to the proportionate interest which we each had held in the company.

I have forgotten to state that there was another debt discussed, due to Mursetter, for boring the well deeper, which it was agreed I should pay, and take my brother Carter's buggy, valued at about $100, and which was to be credited on his assessment due the company.

Ques. State if you ever attempted to borrow money from Dr. Palmer, to which Hough has testified?

315 Ans. I did not.

Ques. State whether, after the sale, you ever claimed to hold Hough responsible for a proportion of the running expenses of the well?

Ans. I did not, nor did I look to any one for means to meet the expenses.

Ques. State what interviews you had with Mrs. James A. Magruder, or with any one else, with reference to assessments?

(At this point the plaintiff's counsel call for the production and filing of the memoranda used by the witness in giving in his testimony, and which are accordingly filed and marked W, M, X, Y, Z.)

Adjourned to Thursday, April 18th, 1872, at 11 a. m., or sooner, by consent, the exam'n under the last date including 2 sessions.

Testimony of Wm. C. Stiles, jr., for Defts.

THURSDAY, *April 15th*, 1872.

Met pursuant to adjournment of 13th inst., Mr. McPherson con-
316 senting to the examination of W. C. Stiles, jr., a witness for defendant, on this date. Present, Cox and Davidge for defdts., and Mr. McPherson for complt.

WILLIAM C. STILES, being duly sworn as a witness for defendant, says:

I reside in West Virginia, and am thirty-three years of age. I have been connected with the Volcanic Oil and Coal Company since its organization in 1865 until 1868, as president since that time, and now as its general agent and attorney. There was a claim held by our company against the lease "No. 36," which lease was rented to Jackson first, and from him to the "Twin-Lick Company," for royalty, which amounted, at the time of the sale of the Twin-Lick Oil Company, when Doctor Marbury acquired the property by purchase, to about four hundred barrels, valued at that time, July, 1867, about $2.50 per
317 barrel. I know that was the amount the Twin-Lick Co. owed us, and I don't recollect whether or not they had ever paid us royalty. There was a further debt due the Volcanic Company of between $1,300.00 and $1,400.00 for oil sold to the Twin-Lick Company to meet their contract for sales that they had made.

Acting as president of the Volcanic Company, I visited Baltimore by appointment made by our then agent, B. G. Wilson, to meet the prominent or active parties of the Twin-Lick Company. This was after the sale of the property to Doctor Marbury. We met at the store of Jordan Stabler, and there were present Jordan Stabler, Doctor Marbury, B. G. Wilson, and one or two other persons of the Twin-Lick Company, whose names I do not remember.

My first effort was for a settlement of the royalty claim, for which I was referred to Doctor Marbury; and then and there the doc-
318 tor and myself agreed for settlement of the claim by his assuming the liability. The above reference and settlement was in consequence of Doctor Marbury's being the then owner, the property having been bought by him.

That matter settled, I made an appeal for the settlement of the other claim, stating that the oil would never have been sold to the Twin-Lick Company had it not been from my knowledge of the individual members of that company, and in the belief that they would protect us, the sale having been an act of accommodation, and made in the knowledge or belief that the Twin-Lick Company was a bankrupt organization. This claim was not settled, and is not settled to this day.

I made an offer for a compromise in the matter, agreeing to throw

319 off about $500.00 from our claim if they, the stockholders of the Twin-Lick Oil Company, would agree to assess themselves to pay said reduced amount. There was a proposition made by Dr. Marbury and, I think, by Jordan Stabler, to pay their share according to the proportion of stock held by them, which I declined, thinking it might complicate a suit which I contemplated bringing.

The royalty matter above mentioned was finally settled in cash by Dr. Marbury, he paying us $1,000.00.

In the meeting above named, I said I was referred to Dr. Marbury; it was by one of the parties of the Twin-Lick Company, in the presence of the others, and was entirely acquies'ed in, all the parties being present while I arranged the royalty-matter with Doctor Marbury.

I should judge that the value of the Twin-Lick property on the
320 day of the sale, said to have been made on the 10th of July, 1867, was about $1,500.00. I don't mean to say that was the value of the property over and above the debts against it, but clear of encumbrances.

There was at that time a very great depression in all oil investments, and in computing the value of property there, only property which was movable and convertible into cash was considered in making purchases of oil property. Unless the well was very productive, no value was attached to it, as it required a large production to pay expenses of pumping, the price of oil being very low. This property, (lease 36,) I think, was yielding but ten or fifteen dollars per week. Personal property used in working wells was at that time so dull that I have allowed engines and boilers, which cost in the neighborhood of two thou-
321 sand dollars, to be sold for taxes amounting to twenty or thirty dollars. They were so far away from railroad transportation that it would not pay to move them. You would have to pay about $10.00 or $15.00 dollars a day for wagons, and it would take several days to move them. Such engines and boilers would have been worth two hundred to two hundred and fifty dollars at our works then.

The description of oil then produced in this region was about played out, and there was no thought or expectation of the different kind of oil subsequently discovered.

We were then producing heavy lubricating oil, of a gravity of 26° to 29° Baume. We now produce oils of gravity ranging from 30° to 46° Baume.

There were no indications, as then understood, of light oil in that locality, and the same was subsequently discovered by boring deeper.

322 I know about the Warner wells, which have been claimed to be on the Twin-Lick Company lease. According to the minutes of lease 36 it does not interfere with the Warner wells; but according to the deed given to George Jackson, of lease 36, the two Warner wells are included in said lease.

This diagram, marked "Defendant's Exhibit Diagram," is correct as to the location of the wells, the dotted lines showing the lines as described in the deed to Jackson, and the black lines showing the lines as described in the minutes, the surveyor's minutes, of the Volcanic Co.

Exhibit Q. R. H., No. 1, now handed to me, is guess-work evedently; the other appears to be drawn from the plats of the Volcanic Company.

Cross-examination of last witness by Mr. McPherson:

323 At the time the deed was made to Jackson, there were probably only thirty-six lots surveyed. These lots or leases were of all

shapes according to the lay of the ground. Lot 61 was not held by Warner at that time. It was surveyed subsequently, perhaps several days. I think the first Warner well was sunk about the same time the first Twin-Lick well was. The first Warner well was very productive at first. The second I don't think was very productive. The production of the Warner wells was about 150 barrels at first per day. In March or February, 1867, I think, the Warner wells had gone very rapidly down. The production never subsequently increased. They have been pumped since July, 1867, continuously, about as continuously as other wells, with occasional break-downs.

324 The comparative value now is for 28° oil, $12.00 per bbl., against $3.60 per bbl. for light oil for refining. The higher the numbers of oil given herein, the less the specific gravity thereof. The value of heavy and light oil in July, 1867, was about equal.

The advantage of striking light oil was its greater production. It is a rule that the light-oil wells will average a greater production than the heavy-oil wells; but there are exceptions.

The depression in prices of oil and machinery, of which I have spoken, continued to about the fall of 1868. The railroad in 1867 passed within $\frac{3}{8}$ths of mile of Twin Lick. The royalty paid Doctor Marbury was a lien upon lot 36.

Suit was commenced against the Twin-Lick Company for the oil sold them. It was begun in this District, but I resigned as president of the Volcanic Company soon after, and I do not know what became of it.

325 Doctor Marbury is now in possession of the lease according to the minutes, and has acquired the whole of lease 61 also.

Redirect examn. of last witness.

I do not know what the production of the Warner wells was in July, 1867, and August, 1868, but know that it was very small.

WM. C. STILES, JR.

Sworn to and subscribed before me the 15th day of April, A. D. 1872.

EDWARD C. INGERSOLL,
Examiner.

Testimony of Joseph F. Brown, for defts.

WEDNESDAY, *April 17th*, 1872.

Met pursuant to adjournment. Mr. McPherson consenting to the examination of Joseph F. Brown, a witness for the defendant, on this date. Present, W. S. Cox for defendant.

JOSEPH F. BROWN, being duly sworn, says:

326 I am 52 years of age, and have been a resident of Washington for nearly thirty years.

Question. State what, if any, conversation you had with Oscar R. Hough, in the winter of 1869 & 1870, in reference to the Twin-Lick Company and Doctor Marbury.

Answer. I frequently saw Doctor Marbury in the office of the Improved Gas-Light Company, in this city, at (414) four hundred and fourteen 10th street, I being the owner of the building, and having my desk there, and Mr. Hough (O. R. Hough) being the manager of the said company. On several occasions after Doctor Marbury would leave the office, I would ask Mr. Hough what news in relation to the oil-wells in West Virginia, where he and Doctor Marbury had been connected with an oil company. He always stated in reply that the company had failed,

and that Doctor Marbury was now the owner of the whole prop-
327 erty, and that he, Hough, had no interest in the same. That Doctor Marbury had advanced money to the company, before the sale, to carry on the business of the company, when no one else would do it, and he always expressed himself to me as glad that the property had passed into the doctor's hands; that the company was not able to pay the money borrowed from the doctor, and the property had to be sold.

He said that the doctor deserved to make money out of it, and that he was glad he had done so.

I have no interest whatever in the matter of this suit.

JOSEPH F. BROWN.

Sworn to and subscribed before me the 17th day of April, A. D. 1872.

EDWARD C. INGERSOLL,
Examiner.

THURSDAY, *April 18th*, 1872.

Met pursuant to adjournment.

Re-direct examination of Dr. William Marbury continued.

328 *Re-examination of Wm. Marbury for deft.*

Present, Mr. Beaston.

Answer to last question, (see pages .)

Early in February, 1867, soon after the passage of the resolution levying an assessment at the meeting referred to in my prior examination, at the request of several members of the board of directors, I called on Mr. J. D. McPherson, the executor of J. T. Cochrane, deceased, to request him to pay, as the representative of Cochrane estate, the assessment due to the Twin-Lick Company, amounting, I think, to $200.00. I did make the request as desired, and Mr. McPherson replied that he would not pay any money on this account without consulting with the widow and sister of J. T. Cochrane. He said he would consult with them about it, and after calling a few days later, the ladies having agreed to
329 his paying it, he gave me a check for the amount due, which I sent to Mr. Stabler, the treasurer, in Baltimore. I never called on Mrs. Magruder for this assessment. I never had any interviews with her in reference to this assessment; but, late in the spring or early summer, I called upon Mr. McPherson in reference to the assessment due to the Eaton Station Oil Company from the same estate. Mr. McPherson told me on that occasion that he would advise against the ladies paying any more money on account of oil, as he had been disappointed in the Twin-Lick Company and its prospects; but if the ladies directed him to pay it, he would do so. I then waited on Mrs. Magruder. She saw me, and I broached the subject of the assessment due to the Eaton Station Co., and represented to her the condition of that company's affairs, telling her that the Co. owed for wages of the workmen engaged in boring a well for that Co. I asked her if she
330 would give her consent to pay to Mr. McPherson the said assessment. She replied promptly that she would be very willing to pay what was due, adding that she did not wish any one to loose what was justly due from her for services. I asked her then if she thought her sister-in-law, Mrs. Cochrane, would also be willing to pay her share of the assessment. She answered that she thought she would. I do not remember any further conversation with Mrs. Magruder on that occasion. I called on Mr. McPherson afterwards, but he declined paying the assessment, and it never was paid, to my knowledge.

Adjourned to Friday, 19, 10 o'clk.

FRIDAY, *April 19th*, 10 o'clk.

Met pursuant to adjournment. Present, Mr. Beaston & Mr. Cox.

By Mr. Cox:

331 Ques. State what you know of an official report made by Jordan Stabler to the Twin-Lick Co. in the fall of '67.

Ans. I received the final report of Jordan Stabler, as secretary and treasurer, the two offices having always been united; and I herewith file the report marked "Exhibit W. M. O."

Cross-examination by Mr. Beaston:

Ques. Did or not Mrs. Magruder, at your interview with her, express her willingness and desire to pay any proper assessments that she might be called upon to pay on account of oil-stock held by her deceased brother?

Ans. She did not, as far as I recollect.

Ques. Is not your recollection very indisti'ct upon the subject?

Ans. As far as my recollection goes, I am sure she said nothing about future assessments or obligations.

332 Ques. Are the memoranda filed by you, all the memoranda used in your examination-in-chief?

Ans. They are. They are in my own handwriting.

Ques. Who assisted you in the preparation of the memoranda?

Ans. No one assisted me.

Ques. Have you not had frequent conversations with your brother, J. Carter Marbury, in the preparation of your evidence in this cause?

Ans. I have had very little conversation with him about the matter, and had no consultation with him in the preparation of my evidence. I have no doubt that I had some conversation with him in reference to facts connected with the company.

Ques. Has, or has he not, been of material assistance to you, and taken a deep interest in your success in this suit?

333 Ans. He has not been of material assistance, and I know nothing from him of his interest in the case.

Ques. Have you no knowledge of his expressed wishes and desires for your success?

Ans. I have not; he gave no expression to me.

Ques. Did you not believe that he has a desire that you should succeed?

Ans. I know that my brother, J. Carter Marbury, from the first intimation of any proceedings in this cause, has always looked upon them, and has acted in accordance with such impressions in the board of directors, as being unjust and unfounded, and I believe that he desires that justice should triumph, and that I should succeed.

Ques. What is lease No. 36 of the Volcanic Coal and Oil Company's land, mentioned in your examination-in-chief on page 38?

334 Ans. The precise lines of lease No. 36 have not been determined. According to the original lease from the Volcanic Company to George Jackson, the dotted line and base-line, as shown in the diagram marked "Defendant 3," is correct. According to the minutes of the Volcanic Company, the oblique lines are correct. The Volcanic Co. claimed that the discrepancy was owing to a clerical error in the deed to George Jackson. I brought a suit, as I stated, to establish my true boundaries of 36, but the matter was compromised, and has never been judicially decided.

Ques. What were the grounds of your belief that the first reported

productions of the well of 50 barrels per day was an exaggeration, and who represented that yield to you?

Ans. The report was mentioned to me by some one connected
334½ with the board of directors. I cannot say who, now, and I have been informed, since I have had possession of the well and the property, by Mr. Allen, the engineer, I think, or some one who had personal knowledge of it from actual observation.

Ques. Who considered and how was it conceded impossible to raise $3,000 spoken of at the time mentioned in your examination-in-chief?

Ans. All the members of the board of directors were of that opinion, and they all conceded the fact from their action in the case. If they had been able to raise the money otherwise than by loan, they would certainly have done so.

Ques. Was the stock of the company ever increased to $50,000 as provided by the charter?

Ans. I don't remember now to what amount it was increased, whether it was $25,000 or $50,000. It was one of the two.

335 Was the whole of the first $25,000 ever called in?

Ans. I don't think it was.

Ques. How much was paid into the company in the aggregate by assessment?

Ans. I cannot approximate. I never kept any books or had any funds of the company. I paid in all, by assessment, $350.00. I paid all the assessments that were called for.

Ques. Of what proportion in reference to the whole stock were you the owner?

Ans. I think a sixteenth interest, and I think 125 shares. The whole number of shares were 2,000.

Ques. Who constituted the board of directors at the time of the resolution for the loan? How many, and who, of said board were present, and how many did it take to constitute a quorum?

Ans. The board of directors consisted of five, viz: Wm. D.
336 Colt, Jordan Stabler, O. R. Hough, J. C. Marbury, and myself; the majority constituted a quorum. They were all present except Hough.

Ques. Before you made the loan, did you investigate thoroughly the value of the property, and who assisted you in that investigation?

Ans. As this was the security offered, I, of course, took steps to inform myself of the value of the property, but I mainly depended on the representations of Mr. Slicer that the well was yielding 25 barrels per day. My brother, J. C. Marbury, accompanied me on the occasion referred to, he having been there before and I not. I thought he might be of assistance to me in estimating its value, but he was not.

Ques. Who bore his expenses?

Ans. I bore his expenses.

Ques. How are you satisfied that the well did not at that time
337 produce more than ten barrels a day, when you say that Mr. Slicer represented the yield as 25 per day?

Ans. From the appearance of the fluid pumped, and my knowledge of such matters, since acquired, and from the statement to that effect by Wm. Allen that it was only producing ten barrels at that time.

Ques. Have you any accurate knowledge on the subject?

Ans. No one could say precisely to a gallon what a well was producing from seeing it pumped; but I could readily tell from observation of a well being pumped, from the fluid being more or less deeply colored, whether a well was producing five, ten, or twenty barrels.

Ques. From your little knowledge of oil at the time of the loan,
338 how are you able to carry in your mind the appearance of the fluid pumped until after the time you were operating the well, about a year afterwards?

Ans. Being very much interested, the appearance of the fluid pumped then is quite distinctly impressed upon my memory.

Ques. Was the financial embar'assment of the company at that time owing to the lack of production of the wells or to the low price of the oil produced?

Ans. It was owing to both.

Ques. Do you consider that the amount loaned and the assessments paid would have been consumed so soon by a prudent management of the company?

Ans. It ought not to have been consumed at the time mentioned, but I thought the money was properly used at the time.

Ques. When did the price of oil advance, and how much did it advance?

339 Ans. In the fall following my purchase, it advanced moderately, and the price remained stationary at $4.00 a barrel, and in the following summer it had advanced to as much as $10.00 per barrel, but the production was gradually diminished.

Ques. How do you know the per diem received by the engineer and superintendent?

Ans. I was a member of the board of directors, and it was my duty to know; I was officially informed, but don't know by whom.

Ques. What amount of fuel was used, and what was the price of it?

Ans. I based my estimate of the amount of fuel consumed from my experience with an engine and boiler, similar in size to the one then in use, and it has required fuel to the value I have mentioned to run it night and day.

340 Ques. Did you loan the money on your own observations of the well, and the solicitations of J. C. Marbury and Mr. Fitzhugh, or on Mr. Slicer's statement that the well was producing 25 barrels per day, and nothing else?

Ans. It was on both, but more on account of Slicer's representations.

Ques. Did you ever consult any of the other members of the company than W. D. Colt about the sale?

Ans. I remember speaking of it to my brother, J. C. Marbury, and Colt, and have an impression that I spoke to the other members of the board of directors.

Ques. Have you then no distinct recollection about it?

Ans. I have no further recollection than what I have said.

Ques. How was J. C. Marbury appointed by the board of directors about July 1st, before the sale, to look after the interest of the company?

341 Ans. He was either appointed by the board at a meeting or by Mr. Colt. Upon further reflection I am satisfied he was appointed by the board, because the board paid his expenses.

Ques. Do you not know that the board was never consulted about it, and that no resolution was ever passed with reference to the same?

Ans. I know the position of attorney in general he held was authorized by the board, and on this special occasion he was authorized by the board to act for them, and his expenses were afterwards paid by the board by giving him credit for an assessment due by him of $100.00.

Ques. How do you know he was instructed by the board of directors to go out to the wells ten days before the sale? Was any resolution

ever passed to that effect? In what manner was the instruction, if any, given?

342 Ans. My impression was that the resolution was pressed, authorizing him, and his instructions were to look after the interest of the company in the property and be present at the sale. In regard to the manner of instructions I am not certain.

Ques. Please state your knowledge and not your impressions upon the subject.

Ans. I have no further knowledge than is mentioned in my foregoing answer.

Ques. Was it not your purpose in buying in the property to exclude the non-paying members of the company? Did you not so inform R. E. Colt and several members of the company?

Ans. That was not my object, and I did not so say to Colt. My object in buying the property was to save myself in my debt, but I reserved to myself to do as I pleased with the well as absolute owner.

343 Ques. Upon your arrival at the wells on the day of sale, did you have any conversation with J. C. Marbury as to what he had been doing there the ten days previous to the sale?

Ans. I don't remember that any conversation was held with him in reference to what he had been doing. I arrived there a very short time before the sale was to commence, and I think nothing was said except what referred to the approaching sale.

Ques. What was said about that?

Ans. Nothing special, except the ordinary preliminaries of the sale.

Ques. Is it possible that nothing passed between you with reference to the present or prospective value of the well, and who should be, under any circumstances, the purchaser of the sale?

Ans. I stated before that before the sale I requested Mr. R. E. Colt to purchase the property for me. In regard to its then present

344 and prospective value I had already made up my mind as to what that might be.

Ques. Did you bid at the sale before it was struck off to R. E. Colt?

Ans. I did.

Ques. Who told Freeborn to start the sale at some price?

Ans. I did not hear any one tell him to bid at all, nor did I know that he was going to bid.

Ques. Was the sale ever reported to any court?

Ans. It was not. I never was aware that any such thing was required.

Ques. Who paid the hotel bill of your brother and yourself at Parkersburg the evening of the day of sale?

Ans. I paid my own bill and my brother paid his.

Ques. You say shortly after your return from the sale you think there was a meeting of the board of directors. Is not your recollec-

345 tion very indistinct on this subject? Was it a stockholders' or directors' meeting? Who were present? When and where was it?

Ans. My recollection of it was pretty good. It was a directors' meeting, and was held at J. C. Marbury's office in city of Washington; the day I do not recollect, nor who were present, though there was a quorum.

Ques. How do you know there was a quorum?

Ans. Because the meeting had proceedings.

Ques. Did you furnish an account of the indebtedness of the company, &c., at this meeting, or did you state in general terms what they were?

Ans. I think I said nothing about the indebtedness of the company.

Ques. What was the greatest production of heavy oil after the sale?

346 15 barrels was estimated and reported to me by Jackson, but that was only for a little while.

Ques. Were any assessments levied or paid after your purchase?

Ans. There were none levied, and the allowance of $100.00 to my brother on his assessment was all that was settled for on account of back assessments.

Ques. Name all the parties belonging to the company to whom you made the offer, as you state, to be kept open for sixty days; when and on what occasions?

Ans. I don't remember the times precisely, but it was after the sale; except that at the meeting referred to I made an offer to those who were present. The parties to whom I made the offer were Wm. D. Colt, O. R. Hough, J. C. Marbury, and Jordan Stabler.

Ques. In your examination-in-chief you say the year follow-

347 ing the strike of light-oil the well yielded you about $30,000 or $40,000. Did your net profits reach $50,000, or what did they reach in that year?

Ans. I can't tell without referring to the books.

Ques. What were your net profits the subsequent year?

Ans. About $15,000, if not more.

Ques. State all the particulars of your resignation as secretary and treasurer, and what induced you to resign.

Ans. I have said that I have no knowledge of my connection with the office of secretary and treasurer, except the letter then referred to.

Ques. Have you met all the liabilities of the Twin-Lick Oil Co. due July 10, 1867, mentioned in your statement filed in examination-in-chief, marked "W. M.," or what liabilities?

Ans. I met none, except the liability for back royalty, which was a lien upon the property.

348 Ques. Who agreed that you should take your brother J. C. Marbury's buggy at a valuation of $100, which was to be credited on his assessment due the company? Was it an arrangement between your brother and yourself; did the company know anything about it; was the credit made and who made it?

Ans. I don't think the company knew anything about the buggy. There was a debt due by the company to a man named Mussatter for boring No. 1 a hundred feet deeper. He brought a suit against the property upon a mechanics' lien. Thinking that I might have trouble with him I proposed to pay him $100.00, in full settlement of his claim and he accepted it. I reported the facts at a meeting of the board of directors,

349 when held I don't remember, and transferred the claim against the company for the payment of this debt to my brother, Carter Marbury, and I had a private arrangement with my brother to re-imburse myself by taking this buggy, said buggy being valued at $100.00, and at the meeting aforesaid a resolution was adopted. I remember distinctly giving him credit for $100 on account of his assessment due, and J. C. Marbury was the acting secretary, and I afterwards requested O. R. Hough, the secretary, to give him credit.

By Mr. McPherson:

The settlement of the Volcanic Co. was not in writing, except the new leases. My claim for damages against the Volcanic Co. extended from the day of the sale up to about the latter part of fall, 1868, the

time of my instituting proceedings. My principal object was to
350 fix my boundaries. I was willing to take whatever profit that might have accrued. I wrote a letter proposing to settle for $15,000, but my estimate was more than that. This was based upon the presumption that the court might decide that I was entitled to all the damages, having been told by my lawyer that it might be so decided, as I had purchased the franchise of the company and succeeded to all its rights thereby; but I never claimed this in my intercourse with the members of the company, only claimed from the day of sale. By far the larger portion of the oil was pumped before the sale. The Warner wells were not deepened until about 18 months ago. I got heavy oil from them, for a little while an increased quantity, but it soon lessoned. In settleing with me I do not know whether the Volcanic Co.
351 proceeded on the assumption that I had the franchise or not. I never gave a release of damages to them in writing that I can remember, but I did verbally, of all that I had or all that I might have. Neither had I, nor do I know that any member of the company, any idea that the location of the Warner wells belonged to the Twin-Lick Co. when the mortgage was made. It was not known at the time of the sale, to myself, or to any one, that I know of; not to the trustee or to any one. About the 1st of March, 1867, I bought a subroyalty of $\frac{1}{16}$th for $400.00 of the products of lease 36. George Jackson owned the other $\frac{1}{16}$. At trustee's sale I bought the tank, but never got it. It was at Petroleum, a shipping-point on the railroad, and I gave it to the man who had built it, it never having been paid for; but I
352 could not have retained it, because the deed had not been recorded, by inadvertence, in Ritchie County, but only in Wood County, in which the wells were. At the time of the sale the Warner Oil Co. had possession of the wells. The highest bona fide bid was $1,000.00, I think, I don't remember by whom. I, myself, bid for it, intending to run it up to the amount of my debt of $2,000.00, but stopped on considering that it would be paying so much more in commissions. All the lines of the lease were visible at the place of the sale. Stakes marked the corners. I am not sure all the stakes were standing, but some of them were. The Warner wells were not within the stakes of Twin-Lick lease. If it had been known that the Warner wells were included in the sale, I don't know that it would have brought much more, because they could not be pumped, as there was a clause
353 in the leases, that no well could be pumped within 2 rods of the dividing line. The Warner wells did not interfere with the Twin-Lick wells at that time.

Adjourned till Saturday, April 20, at 12 m. Two sessions in the above.

Testimony of B. G. Wilson for deft.

Met pursuant to adjournment, on April 20. Present, Mr. Davidge and Mr. McPherson.

BERNARD GILPIN WILSON being duly sworn, deposes and says: I reside at Parkersburg, West Virginia. I know Mr. Jordan Stabler. Have known him all my life. Before April 10, 1871, the day of the institution of this suit, I had conversations with him in relation to the purchase by William Marbury of the Twin-Lick Oil Co. property in West Virginia. These conversations took place in Baltimore—probably all in

his store. I had probably as many as a dozen conversations; at
354 least that many, I should say. In all those conversations he acknowledged Dr. Marbury as the owner of the property. My understanding was that he acknowledged Dr. Marbury to be the absolute owner. I cannot give his language, but the substance of what he said was that Dr. Marbury was the absolute owner. In all these conversations, he never asserted any interest in the property of the Twin Lick Co., nor in himself, until after Dr. Marbury had, by sinking an old well deeper, obtained light oil. He then claimed that Dr. Marbury purchased as the agent of the Twin-Lick Co., and that the company was entitled to have the property restored. I am satisfied that, until after the discovery of the light oil, he never set up in these conversations any claim to the property on the part of the Twin-Lick Oil Co. or of himself. I am related to Jordan Stabler.
355 His mother and my mother were half-sisters. My relations with him are friendly and intimate now. I have frankly advised him against his course in this matter. The conversations were all started by him. I never introduced the subject to my recollection. I don't know why he talked so much about it, but I live out in West Virginia, and am engaged in the oil business. I was present at an interview between William C. Stiles, the president of the Volcanic Oil & Coal Company, Dr. Marbury, Jordan Stabler, and myself, in relation to the payment for oil bought by Stabler from the Volcanic Oil & Coal Co. to fulfil contracts in Baltimore. The question of the payment for this oil was discussed, and Stabler declared his company was unable to pay for this balance due. When this subject was disposed of, a question of back
356 royalty due by the Twin Lick-Co. to the Vocanic Oil & Coal Co., came up. Stabler referred that matter to Dr. Marbury, as he was the owner of the property. Stabler said in substance that Dr. Marbury had bought the property, subject to all the liens upon it—among them this claim for back royalty—and referred to him the president of the Oil & Coal Company. I have no interest in this suit.

Cross-examination by Mr. McPherson:

In conversations about which I testified, Stabler referred to Dr. Marbury as the owner of the property. One was a conversation in reference to the claim of the Volcanic Co. against the Twin-Lick Co. At the meeting at which that conversation occur'ed, the question of back royalty came up, and that question was referred to Dr. Marbury, as the owner of the property, by Stabler. Stabler referred to Dr. Mar-
357 bury as the owner of the property, and as the successor of the Twin-Lick Co. I have no recollection of any other conversation in which Dr. Marbury was particularly referred to as the owner of the property; but in frequent conversations which I had with Mr. Stabler, Dr. Marbury was referred to, in a general way, as the owner of the property. The first time that Stabler made a claim for any interest in the property was in the winter of '69 & '70. I cannot say positively that he made any claim at that time. He made the claim, the first time, after the time Mr. Beaston was out there, in the summer or fall of 1870. That is all I can be positive about.

B. G. WILSON.

Sworn and subscribed before me,

EDWARD C. INGERSOLL,
Examiner.

Adjourned till Monday, April 22, 1872, 10 o'clock a. m.

358 *Testimony of Geo. Jackson, for def't.*

Met pursuant to adjournment, April 22, '72, 10 a. m. Present, Mr. Cox and Mr. McPherson.

GEORGE JACKSON, being duly sworn, deposes and says:

I reside in Parkersburg, West Virginia, and am oil-producer. I was for a short time the superintendent of the Twin-Lick Oil wells; for about two weeks prior to the sale; about July 10, 1867. I was superintendent under power of attorney from the company. I was appointed by Dr. Marbury as his attorney. After the sale he left me in charge of his property, and stated that he would invite some of the best men to join with him and form a new company. Dr. Marbury said that he would take in these men if they would pay in their proportion of the amount
359 which the property had stood him at, including the full amount of the loan, $2,000.00. Afterwards he gave me full power of attorney; about two months afterwards, I think. This was after I understood that an offer had been made to the others to come in. I have acted as superintendent under that power of attorney ever since. I was present at the sale. The sale was conducted fairly, to the best of my knowledge. I was then superintendent of the company. The Warner wells were on the lease No. 36, according to the terms of the deed given to me by the Volcanic Oil & Coal Co., which lease I transferred to the Twin-Lick Co. One of the wells was about two feet and the other about eight feet from the lines as laid down in the original lease to me from the Volcanic Co., and, according to the terms of the lease, they could
360 not be worked. Lease 36 was occupied, in point of fact, not according to the lines of the lease, but according to a plat in the Volcanic Co.'s office, which was erroneous; which plat excluded the Warner wells, which are numbered on defendant's exhibit, marked diagram, as numbers 3 and 4, and erroneously included the well marked on said diagram as number 2. In 1868 the error in the holding of the company was first discovered. At the time of the sale number 2 well was producing. This was the only well producing on the Twin-Lick Co.'s lease, as occupied by them, and even that was not producing oil in paying quantities. By correcting the lines this well would have been thrown out, or would have been found right on the line. By some of the surveys the well was found right on the line. If the true lines of
361 the lease had been known at the time of the sale the property would not have sold for as much, I think. I was the original lessee, of the Volcanic Co., of lease 36. I transferred this lease to the Twin-Lick Co. I repeatedly told Mr. Hough that the lines were different from those by which he was working. To which he replied that they had been surveyed, and that I was mistaken. On one occasion when I spoke to him about it he intimated to me that he would rather have it that way. I called the wells the "Marbury" wells after I got the power of attorney. This change of name was at my own suggestion. They have gone by that name ever since. At one time I advised Dr. Marbury to abandon the wells, unless there was some improvement soon; this was about the winter or spring of '69. Soon after
362 that time there was light oil struck in the same oil line, about a quarter of a mile from there. Dr. Marbury then concluded to bore No. 1 well deeper for light oil. No. 1 well had produced nothing in paying quantities since I took charge of the property until it was bored deeper for light oil. While I have been in charge of the wells no one—that is, no member of the company—asked about the wells

until after the light oil well was struck. No one called on me for an account. No one made any claims until after the light oil was struck. A short time before Mr. Beaston came out I had some intimation of this claim; but no one asked me about the property. This was the first time, to the best of my recollection, that I heard of this claim. Mr. Beaston went out about the spring of 1870.

The Warner wells have produced, from the first of May, 1870, when I took possession as attorney and agent, until now, not over a barrel a day, on an average; about 600 barrels in all.

Cross-examination by Mr. McPherson:

363 Ques. What interest have you in leases 36 and 61, and when was it acquired?

Ans. One-sixteenth royalty interest. The sixteenth interest in 36 I retained when I sold the Twin-Lick Co. The sixteenth interest in 61 I acquired on the first of May, 1870. This was acquired in the general compromise between Dr. Marbury and the Volcanic Co.

Ques. What leases do you (mean) refer to in your testimony-in-chief as containing the terms between yourself and the Volcanic Co?

Ans. I mean the lease made to me by the Volcanic Co., number 36. There was only one deed to me from the Volcanic Co. referring to this property.

364 Ques. Did Dr. Marbury tell you that he intended to give sixty days to the best men in the co. to join him, or did he name any special time, before he returned from West Virginia, after the sale?

Ans. Dr. Marbury said before and after the sale that he would rather have his money, loaned by him, than the lease; and that he would give such men as he thought proper an opportunity to come in with him, provided they would pay their proportion of what the lease cost him, including this $2,000.00. I don't remember that he specified the time that he would allow them.

Ques. How many wells are there on the entire property, 36 & 61?

Ans. The 4 old wells and a new one going down on 61, outside of the disputed portion of 61.

Ques. How many of wells do you work?

365 Ans. I am pumping two of them for oil now, Nos. 2 and 3.

Ques. How long in the two years have both the Warner wells (3 and 4) been idle?

Ans. About half the time, I suppose.

Ques. From what cause?

Ans. Because they would not produce oil in paying quantities.

Ques. Which kind of oil has borne the highest price since the spring of '68?

Ans. The heavy oil since that time; prior to that time heavy oil was lower than light oil.

Ques. When was this intimation given by Hough that he would rather have the lines as they were?

Ans. After well No. 2 was struck, I think.

Ques. Why do you think the property would have sold for less if the real lines had been known?

366 Ans. Because no well can be bored or worked within two rods of the dividing line by the terms of the lease, and the correction would have brought all the wells within that distance except No. 1.

Ques. Were the leases adjoining 36 older or junior to it?

Ans. 36 is older than the adjoining leases.

Ques. Was well No. 2 included in the next lease of the Volcanic, east of Twin Lick?

Ans. It was not. It would belong to the Volcanic, unless it was on the line. The lease on the southeast of No. 36 conformed to the plot of the Volcanic.

GEORGE JACKSON.

Sworn to and subscribed before me.

E. C. INGERSOLL,
Examiner.

Adjourned to Tuesday April 23d, 10 a. m.

Met pursuant to adjournment on Tuesday, April 23, 10 a. m. Present: Mr. McPherson.

367 *Testimony of S. Woodward, for deft.*

SEYMORE WOODWARD, deing duly sworn, deposes and says:

I am 34 years of age, and reside at Petroleum, West Virginia.

I know Col. Colt, of Sandusky, Ohio. I knew about the sale of the property formerly known as the "Hough wells," and being the same property as that now owned by Dr. Marbury; which wells were situated on Twin Lick and adjoining the Warner wells. On the day of the sale, or the next day, Colonel Colt informed me he had bid in the property for Dr. Marbury, and I understood from these conversations that Dr. Marbury was the absolute owner of these wells, and that he (Dr. M.) was to work it on his own account; and Col. Colt remarked also that the company was discouraged, and was going to give up the oil
368 business. Col. Colt also gave me to understand that the company was going to have no further interest in the wells, but that Dr. Marbury was going to work it as his individual enterprise. A great deal of the property changed hands about that time in the same way. Col. Colt left Petroleum about the last part of July, and came back in the fall or winter. I had no further conversations with him about this particular property.

Cross-examination by Mr. McPherson:

These conversations occurred at Petroleum. He told me he was going over to the sale, and when he came back he told me he had bought the property for Dr. Marbury, or had bid it off for him. I asked him if the Dr. was going on to work it, and he said he was, as an individual
369 enterprise. The object of my question was to know whether the well would be worked or not; because I had teams and wanted to know whether I would have work to do, and who we might expect to work for. Col. Colt said that the property would be sold, because the company had lost a great deal of money, and was discouraged. This conversation was within a week after the sale. After Col. Colt's return he certainly stopped over a train, and may have stopped over two trains.

SEYMOUR WOODWARD.

Adjourned to Wednesday, April 24, 11 o'clock.

Adjourned to Thursday, April 25, 10 o'clock a. m.

Adjourned to Friday, April 26, 10 o'clock a. m.

Adjourned to Thursday, May 2, '72.

370 *Cross-examination of Wm. Marbury.*

THURSDAY, *May* 2, 1872.

Met pursuant to adjournment. Present, Mr. Cox and Mr. McPherson.

Cross-examination of Dr. Marbury continued:

The well No. 4, marked in the exhibit filed by me, marked "Diagram," as No. 4, was bored deeper (100 ft.) in the fall of 1870. Since then it has been discovered by actual experience that the two wells, No. 2 and 4, were connected. Before the boring of No. 4 well, there was no connection. I do not remember that any other well than the Valentine well, next adjoining on the south, interfered with No. 2, and this well interfered at the start, before there was any boring deeper.

As a general rule the light oil lies deep, in the lowest strata.

371 There are different gravities of what is known as heavy or lubricating oil.

At the time of the sale there was no light oil known to exist in that particular region, nor was it thought of to my knowledge.

I mean oil of the gravity of 40 to 45 degrees. If light oil was spoken of at that period, it was understood to mean the lighter grades of heavy or lubricating oil; for instance, 31° oil was then called light oil. I have seen a letter from Stabler to Slicer, telling him to dig deeper for "lighter oil." By "lighter oil" I understand Mr. Stabler to have meant the lighter grade of heavy oil, and the object, I have no doubt, was to obtain an oil by the mixture, which would be more easy to refine, for at the time referred to there was no sale comparatively for heavy oil

372 as a lubric'tor, and the heavier it was the more difficult it was to refine it.

I was present at the meeting in 1868 of stockholders, when the subject of taking steps to recover for trespass on the part of Warner was discussed; I had recently returned from the wells and discovered the error, and had authorized my agent to institute legal proceedings to determine my rights in the premises; whether he had done so at this time, I cannot remember. I don't remember that they ever took any actual steps. I never had any further communication with the company on the subject, unless it was in private conversations incidentally. I never told any of the company the particulars of my settlement with the Volcanic Company, not believing that they had any interest them-

373 selves in what I considered my private business, that is as regards my claim as separate from theirs. In settleing with the Volcanic Co., on account of this Warner complication, there was nothing said about this claim of the Twin-Lick Co., as I considered this a separate business to be further investigated and settled.

Carter Marbury, I presume, knew of my settlement with the Volcanic Company and the terms of it, as I would naturally speak to him about it. He could only have known it after its consummation. I arranged the compromise on my part, upon my own judgment, and at the wells where it was first suggested to me by the agent of the Volcanic Co., and accepted as soon as offered. That was, I think, in September, 1869. I had previously brought suit in the United States court and in the State court.

374 It was thrown out of the United States court because I was a citizen of the District of Columbia, and could not sue in a court; this same suit was then begun in the State court, and was pending there when the compromise was made.

Jackson was not present during the consultation and acceptance of the offer made to me as above stated. Jackson made his own settlement separately.

(Adjournment to Friday.) Continued.

Redirect examination by Mr. Cox:

Ques. Why was not the unpaid stock not called in?

Ans. For the same reason that they could not raise money by assessments, the members being all unwilling and some unable to pay, and confidence in the enterprise was in a great measure lost.

375 Ques. State what you know about the means of the stockholders at the time of the sale?

Ans. I am satisfied from conversations with Wm. D. Colt, O. R. Hough, and J. Carter Marbury that they were all destitute of means. They all said they had no money when I invited them to participate with me. For the same reason I made no effort to sell the stock that was pledged for the balance of the debt remaining after the sale of the property.

WM. MARBURY.

Sworn to and subscribed before me this 2d day of May, 1872.

EDWARD C. INGERSOLL,
Examiner.

OCTOBER 9*th*.

O. R. HOUGH, witness, heretofore recalled for defts., (cross-examination,) testifies as follows:

376 Present, Mr. McPherson for plaintiff, and Mr. Cox for defendant.

Ques. What was the value of the stock which you testified you offered to Dr. Marbury?

Ans. It was worth ten cents on the dollar, which made my stock, that is, the stock held by me, worth $3,300.00.

Ques. Did you ever ask of Dr. Marbury, or did he ever furnish to you an account of the expenses incurred by him in running the well after the purchase by him at the sale?

Ans. I never did, nor did he furnish it.

Ques. Did you have a conversation in September, '69, with Dr. Geo. P. Fenwick in returning from a tournament at Silver Springs, on the cars of the Metropolitan Branch Railroad, in which you stated that Dr. Marbury had been very lucky; had struck oil, and was making 4 or 5

377 hundred dollars a day; that he bought the property under a deed of trust, and had been the owner of it for about 2 years; that you had been one of the company who had owned it; that the company couldn't carry it on for want of money, and had failed; and that you had not paid up and maintained your interest because you had no money, or substantially the foregoing?

Ans. I do not recollect of any such conversation, nor do I think could have made any such statement.

Redirect by Mr. McPherson:

Ques. How early, to your knowledge, were borings made for light oil in the neighborhood of the Twin-Lick Co.?

Ans. A well was put down in the winter of '64 & '65, on Mud Licks Run, about a mile and a quarter from Twin Lick Co.'s, lease, I think by

378 the Volcanic Oil Co., for the purpose of procuring light oil. Also in

the same winter a well was put by Jacob Cork and others, about 2 miles from Twin-Lick, also for light oil. I will also state that in the winter of '66–'7 a well was put down by Jacob Cork and myself and others on "Northwestern Pike," distant about 2 miles from Twin Lick, and a small quantity of light oil produced, at the depth of about 300 feet, in February, '67. My own well on lease "23," on Mud Lick, was producing, at a depth of about 300 feet, heavy oil. I stopped the production of heavy oil and made a contract to sink the well deeper for the purpose of procuring light oil, but did not procure it.

Ques. How long and how constantly were you in that country before Dr. Marbury took charge of the Twin-Lick well?

379 Ans. I was in that country from Oct., '65, until about March, '67.

OSCAR R. HOUGH.

Sworn to and subscribed before me this 9th day of October.

EDWARD C. INGERSOLL, *Exmr.*

Adjourned to Friday, Oct. 11, at 11 o'clock.

INGERSOLL, *Examiner.*

OCTOBER 11.—Met pursuant to adjournment, and adjourned to a day to be hereafter agreed upon by counsel.

EDWARD C. INGERSOLL, *Exmr.*

Testimony of Geo. P. Fenwick for deft.

OCTOBER 14th 1872.—Met pursuant to adjournment. Present, Mr. Cox for deft., and Mr. McPherson for pltff.

380 Whereupon GEORGE P. FENWICK, residing in the city of Washington, D. C., a witness produced, sworn, and examined on the part and behalf of the defendant in the above-entitled cause, deposes and says as follows, to wit:

Ques. Had you any conversation with Oscar R. Hough, in September or October, 1869, in the cars on the Metropolitan Branch Railroad, on your return from a tournament at Silver Springs, in relation to the defendant and his oil business? If so, state fully said conversation.

Ans. After leaving the grounds and getting on board the cars, soon after the cars started, Mr. Hough stated and says: "One of your M. D.'s has been quite successful lately." I said, "How?" He said, "He's struck oil." And he then went on to state that they had sunk money out in West Virginia, near Grafton, in an oil-well, and that Dr. Marbury had a deed of trust upon the well, and that they had sold out to

381 Dr. Marbury, or given up all claim to the Dr. I then asked why they did not go on longer; that they might have been successful as Dr. Marbury had been. He said that he hadn't any money to run it on further. He said that he had spent $5,000.00 himself. He also said that Dr. Marbury had sunk a shaft deeper, and had struck oil. He then went on to say that Dr. Marbury was making 4 or 5 hundred dollars a day.

The above is about the substance of the conversation we had on the occasion referred to.

G. P. FENWICK, *M. D.*

Sworn to and subscribed before me this 14th day of October, A. D. 1872.

EDWARD C. INGERSOLL,
Examiner in Chancery.

382 DISTRICT OF COLUMBIA,
County of Washington, ss:

I, Edward C. Ingersoll, examiner in chancery, do hereby certify that, in pursuance of agreement of counsel, the foregoing depositions were taken down, and by me and by clerks, with the consent of counsel, reduced to writing in the presence of, and from statement of witnesses at the time and place designated in the caption thereof, and were then and there by me read over to the witnesses, and by them subscribed in my presence, the witnesses having been by me first duly sworn to testify the truth, the whole truth, and nothing but the truth touching the matters at issue in said cause.

I further certify that I am not of counsel for any of the parties to said cause, or in any manner interested therein.

EDWARD C. INGERSOLL,
Examiner in Chancery.

383 *Testimony of B. S. Compton for deft.*

In the supreme court of the District of Columbia.

THE TWIN-LICK OIL CO. }
v. } 2345. Eq. doc. 11.
WM. MARBURY. }

Interrogatories for B. S. Compton, a witness for the defendant.

1. State your name, age, residence, and occupation.

2. Had you any acquaintance with Richd. E. Colt, of Sandusky, Ohio, and did you have any conversation with him in January or February, 1868, in the office of the Tubing Company, at Petroleum, W. Va., and what was the substance and purport of such conversation?

3. Did he state to you that the property of the Twin-Lick Oil Company had been sold according to law, and that the company had
384 no longer any interest in it, and that the purchaser was the absolute owner of it, and that you would have to see him on the subject of certain ground-rent charged against the Tubing Company, or something to that effect?

4. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this, your examination, on the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

W. D. DAVIDGE,
and W. S. COX, *for Deft.*

Commissioners' names: John A. Hutchinson, Walter S. Sands, J. M. Jackson, Okey Johnson.

385 Deposition of B. S. Compton, a witness produced, sworn, and examined on the 10th day of August, 1872, at the city of Parkersburg, Wood County, State of West Virginia, by virtue of a commission issuing from the supreme court of the District of Columbia, directed to John A. Hutchinson, Walter S. Sands, J. M. Jackson, and Okey Johnson, commissioners for the examination of said B. S. Compton as a witness for the defendant in a certain cause depending in said court, wherein the Twin-Lick Oil Company is plaintiff and William Marbury is defendant.

Present, Walter S. Sands and Okey Johnson, two of said commissioners.

The said B. S. COMPTON, being duly sworn to make true answers to all such questions as shall be asked upon the interrogatories annexed to said commission, without favor or affection to either party, and therein to speak the truth, the whole truth, and nothing but the truth, deposeth as follows:

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First. To the first interrogatory he answers as follows: My name is Benjamin S. Compton; my age forty-six [years;] my residence Monroe County, State of Michigan.

Second. To the second interrogatory he says: I had a conversation at the place, and about the time mentioned in said interrogatory with a man named Colt. I do not know his first name or residence. I was complaining about the company, on which my pumping station at Twin Lick was charging a hundred dollars a year for it, when I was to have it gratis. He said the company had no control over it; that Dr. Marbury had had it sold, and hence the company had no longer any control over it. I do not recollect the company's name. It was the company who had owned the lease where my pumping-station was at Twin Lick.

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Third. To the third interrogatory he says: I do not recollect of his using the expression that the property of the company had been sold according to law; he said it had been sold by Dr. Marbury under a deed of trust, mortgage, judgment, or something of the kind, and that the company had no longer any control over it. I think he said that by seeing Dr. Murbury himself, I might get the matter adjusted in regard to the ground-rent.

Fourth. To the fourth interrogatory, he says: I do not.

And further deponent saith not.

B. S. COMPTON.

388 STATE OF WEST VIRGINIA,
Wood County, ss:

We, Walter S. Sands and Okey Johnson, two of the commissioners named in the foregoing commission, do hereby certify that the foregoing deposition of Benjamin S. Compton was taken, subscribed, and sworn to before us on the 10th day of August, 1872, at the city of Parkersburg, in the county and State aforesaid.

Given under our hand and seals this 10th day of August, 1872.

WALTER S. SANDS. [SEAL.]
OKEY JOHNSON. [SEAL.]

388½ In the supreme court of the District of Columbia.

TWIN-LICK OIL COMPANY *vs.* WILLIAM MARBURY. } 2345. Eq. doc. 11.

EXHIBITS TO DEFENDANT'S TESTIMONY.

Exhibit W. M. O.—Filed Dec. 9, 1872.

Twin-Lick Oil Company, in account with Jordan Stabler.

DR.

1866.			
July	20.	To cash pd. for 40 bbls., 64.00. Drayage, books, and stationary, fr't, telegraph, &c.....	106 14
Aug.	1.	Telegraphing, (tel. had to be paid by treasurer both ways at all times).....	5 56
Sept.	3.	Pd. D. W. Long for tank.....	175 00
	"	" to O. R. Hough.....	1,000 00

	14.	" " do.		250 00
	20.	" " do.		600 00
	21.	" " do.		250 00
	21.	" for bank & ch'k books & stamps		8 75
Octo.	2.	" " *gua*ging bbls. of oil		12 00
		Over		1,405 45

389 1866. DR.

		Am't carried over		1,405 45
Octo.	4.	To cash p'd to C. H. Slicer		500 00
	11.	P'd to O. R. Hough		800 00
	27.	" fr't on 330 bbls. to Crescent Oil Co	519 75	
	"	" " " 330 empty, " " do.	148 50	
	"	" Prine for *gua*ging same	33 00	
				701 25
	29.	" to O. R. Hough		661 15
	30.	" " C. H. *Thief* Slicer		800 00
Nov.	15.	" " O. R. Hough, (to close his ac's)		300 00
	16.	" fr't on 187 bbls. to Crescent Oil Co	294 53	
	"	" " " 147 empty " " " "	66 15	
		40 not in shipping order sold for 38.00.		
	"	" Prine for gauging the same	18 70	
				379 38
	"	" to C. H. Slicer		778 82
Dec.	4.	" Merrill & Co., for press to make bbl. lab*les*, ordered by Slicer, & bill sent to me		23 40
	8.	" to C. H. Slicer		800 00
	"	" for gauging and separating water from Parkhurst's oil		30 40
	21.	" to C. H. Slicer		600 00
	29.	" " do.		600 00
1867.				
Jan'y	21.	" " do.		250 00
		" for teleg'h, stamps, & sub. for oil paper		24 51
		Over		8,654 36

390 1867. DR.

		Am't brought over		8,654 36
Feb'y	9.	To cash paid to Humphreys, (at well,) (Slicer)		86 00
	"	P'd to Hague, (at well) (Slicer)		40 00
	"	" " C. H. Slicer		100 00
	14.	" " do		20 00
	18.	" " do.		550 00
	25.	" " Dr. Marbury's expenses to wells		100 00
	"	" " C. H. Slicer		500 00
Mar.	2.	" for bbl. marks (tin)		7 50
	4.	" Slicer's d'ft, in favor of Long & Co		500 00
	"	" " " " " D. Harris		200 00
	"	" to C. H. Slicer		250 00
	"	" for telegraphing, &c		15 00
	21.	" to C. H. Slicer		50 00
	27.	" " W. D. Colt, & D. & O. T., for press & certif's		26 50
April	1.	" " C. H. Slicer		60 00

	"	"	" do.	400 00
	13.	"	" do. for Allen	50 00
	24.	"	" Wm. Marbury, for tares	43 00
June	1.	"	" Allen (workman)	100 00
	"	"	" J. Stabler, com. on sal'y, @ 2½ %	285 00
				12,037 36

391 1866. DR.

			Am't brought over	12,037 36
June	14.	To cash for teleg' and adv't		16 70
	17.	"	" D. Harris, for pump'g well	50 00
	21.	"	" G. W. Allen (workman)	50 00
July	24.	"	" Volcanic Oil Co., on ac'	494 87
Aug.	1.	"	" D. Harris	66 00
Sep.	25.	"	" J. Parkhurst, jr. & Co	159 23
				$13,876 16
				13,823 45
"	"	"	" Due Jordan Stabler	52 71

Twin-Lick Oil Co. in account with Jordan Stabler.

1866. CR.

Sep.	1.	By cash of Carswell & Son,	208 bbls.	@	12 c.	1,009 32
"	"	" " Rob't Read,	150 "	"	11½c.	685 69
	3.	" " R. W. Hammill & Co.,	570 "	"	15 .	307 50
	14.	" " T. & J. M. Smith,	50 "	"	12½c.	240 00
Octo.	4.	" " Crescent Oil Co.,	500 "	"	20 c.	4,117 80
		including fr't wh' I had to pay (15c–17c.) 517. 17 bbls., more than ordered, sold then at market-price, 15c.				
	30.	" " Carswell & Son, 483 bbls, 8c				1,527 15
		Carswell's payments made Octo. 30th. 1,000				
		" " " Dec. 31.. 350				
		Advanced				1,350 00
Dec.	8.	" " " Parkhurst, jr. & Co., 239 11½ @ 8				897 43
		Sent Oct., 196 @ 11½c.				
		" Dec., 47 @ 8 c. Sent by Slicer without order when there was no sale.				
		Over				8,784 89

392 1866. CR.

		Amount brought over	8,784 89
Dec.	11.	By sale of 50 empty bbls. (bad order)	38 00
"	21.	" cash advanced by Parkhurst, jr. & Co	500 00
1867.			
Jan'y	21.	" " " " " "	500 00
Feb'y	16.	" " " " " "	600 00

May	29.	" " " " " "			600 00
		913 bbls. oil sold @ 7c.....		2,555 71	
		less gauging @ 10c..	91 30		
		" 4 gals. water ea. bbl.....	255 64		
		" 84 bbls. stolen, 2.00.....	168 00		
				514 94	
				2,200 00	
				2,040 77	
		Balance paid to Parkhust.....			$159 23
Feb'y	4.	By W. D. Colt's asses't.....			200 00
	"	" Dr. W. Marbury's do.			100 00
	13.	" est. of J. T. Cochrane, do.			200 00
	14.	" E. Hambleton's do.			200 00
	18.	" Jordan Stabler's do.			100 00
	25.	" loan from Dr. W. Marbury.....			2,000 00
					$13,823 45

393 *Exhibit W. M.—Liabilities of the Twin-Lick Company, July 10, 1867.*

My note, with interest.....	2,050 00
Bal. due Vol. Oil & Coal Co.....	1,371 00
Royalty due ditto @ $2.50 per bbl., 400 bbls.....	1,000 00
Bal. due D. W. Long & Co. for tanks	700 00
Bal. due by G. W. Allen for wages, as appears by Exh. 21, J. Stabler's evid.....	200 00
Sundry debts, as per Allen's letter of June 14th, 1867; Exh. J. S., No 10: Nelon, $20; Muncur, 50; Finney & Co., 15; L. Beck, 30	115 00
Bal. due pipe company, as per bill of Jos. Casey.....	480 50
	5,916 50
Assessments due, $500; proceeds of sale of the lease & machinery, 1,100	1,600 00
Deficit	4,316 50

394 *The Twin-Lick Oil Co. to Joseph Casey, Dr.*

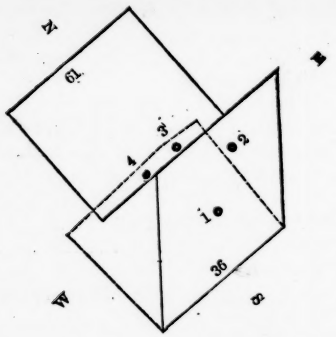
1866, Nov.	20.	To transporting 588 bbls. oil, @ 50...	$294 00	
		147 bbls., paid by Jackson.....	73 50	
				$220 50
1867, Jan'y	29.	200 bbls. oil.....		100 00
" Feb'y	27.	400 bbls. oil.....		200 00
				520 50
13 June,	'67.	By cash rec'd from Col. Ford, for tank.....		400 00
				$480 00

1,388
147

1,241
455

786 barrels to be accounted for.

Exhibit diagram.



36, lease to T. L. Co.; Nos. 1 & 2, wells. 61, lease to Warner Co.; 3 & 4, wells. Dotted lines show the original lease to Jackson; oblique lines show 36 as it appears on the plat of the Volcanic Comp.

395 EXHIBIT P. 1.

I hereby appoint George Jackson, of Parkersburg, West Virginia, the agent and attorney of the Twin-Lick Oil Company, of West Virginia, to attend to all the interests of the company, at the wells of the company or elsewhere, and to appear for and answer all suits against the company.

WM. D. COLT,
Prest. Twin-Lick Oil Co.

WASHINGTON, *June 18th*, 1867.

I certify to the above.

JORDAN STABLER,
Secy. & Treas.

[Seal & stamp.]

WEST VIRGINIA,
WOOD COUNTY RECORDER'S OFFICE, *June 24th*, 1867.

The foregoing power of attorney, duly stamped, was this day received in said office and admitted to record therein.

Test: EDWR. M. HOIT, *R. W. C.*

396 EXHIBIT P. 2.

Wm. Marbury to George Jackson.—Power of attorney.

Know all men by these presents that I, William Marbury, of Washington City, in the District of Columbia, do hereby constitute and appoint George Jackson, of Wood County, in the State of West Virginia, my true and lawful attorney, and as such do authorize and empower him, in my name and behalf, to do all acts in connection with the work of producing and selling oil, and generally to do any and everything as to the general management of the oil business upon the Twin-Lick lease, purchased by me under mortgage-sale on the 10th day of July, A. D. 1867, as if I myself were present and acting, hereby ratifying and confirming all his actions in the premises. And I do also hereby further empower him in my name and behalf to enter his appear-

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ance to all suits which may be instituted against me in any of the courts of the State of West Virginia having relation to the said oil business. Witness my hand and seal this thirtieth day of August, A. D. 1867.

WM. MARBURY. [SEAL.]

WASHINGTON COUNTY,
District of Columbia, to wit:

I, John S. Hollingshead, a notary public duly appointed and commissioned in and for Washington County in the District aforesaid, do hereby certify that William Marbury, party to the foregoing and annexed power of attorney, appeared before me in my county aforesaid and acknowledged the same to be his act and deed.

In testimony whereof I have hereto set my name and affixed my seal this 30th day of August, 1867.

[SEAL.] JOHN S. HOLLINGSHEAD,
Notary Public.

398 WEST VIRGINIA,
WOOD COUNTY RECORDER'S OFFICE, *September* 5, 1867.

The foregoing power of attorney, duly stamped, was this day admitted to record in said office with certificate of acknowledgement annexed thereto.

Deed-book No. 28, page 220.

Test: EDW. M. HOIT, *R. W. C.*

WEST VIRGINIA,
WOOD COUNTY RECORDER'S OFFICE, *June* 14, 1871.

I, W. H. Smith, recorder of said county, do hereby certify that the foregoing power of attorney from William Marbury to George Jackson, is a true and correct copy as from the record in my said office.

In testimony whereof witness my hand and official seal this 14th day of June, 1871.

[SEAL.] W. H. SMITH,
Recorder Wood County.

399 Hearing ordered Nov. 25, 1872.

In the supreme court of the District of Columbia.

TWIN-LICK OIL CO. *vs.* WM. MARBURY ET AL. } 2345. Equity dock. 11.

Set this cause for hearing upon the pleadings and proofs.

JNO. D. MCPHERSON,
Solr. for Complainants.

Cause set for hearing as directed.
By the clerk.

Certified to gen. term, Dec'r 10, 1872.

In the supreme court of the District of Columbia.

TWIN-LICK OIL CO., *vs.* WM. MARBURY ET AL. } 2345. Equity docket 11.

It is ordered this 10th of December, 1872, on agreement and request of parties, that the above cause be, and hereby is, certified to the general term to be heard in the first instance.

By the court.

A. WYLIE.

400 Proceedings before the supreme court of the District of Columbia in general term, at January term, 1873, commencing on Monday, the 6th day of January, 1873. Present: Chief-Justice Cartter and Justices Olin, Wylie, Humphreys, and MacArthur.

SATURDAY, *February 22d*, 1873.

Session resumed pursuant to adjournment. Present: Chief-Justice Cartter, and Justices Wylie, Humphreys, and MacArthur.

TWIN-LICK OIL COMPANY *vs.* WILLIAM MARBURY ET AL. } 2345. Equity docket 11.

This cause came on to be heard at the present term of this court, and was argued by counsel; and thereupon, upon consideration
401 thereof, it is ordered, adjudged, and decreed that the bill be dismissed with costs.

And from this decree the complainant, by its solicitor, Mr. McPherson, prays an appeal to the Supreme Court of the United States, and the same is allowed.

402 In the supreme court of the District of Columbia.

TWIN-LICK OIL COMPANY OF WEST VIRGINIA *vs.* WILLIAM MARBURY.

Know all men by these presents that we, John D. McPherson and James M. Carlisle, are held and firmly bound unto William Marbury in the just sum of five hundred dollars lawful money, for the payment of which to the said William Marbury, or his certain attorney, his executors, administrators, and assigns, we hereby bind ourselves jointly and severally firmly by these presents. Sealed with our seals, dated this 4th day of October, A. D. 1873:

The condition of this obligation is such that whereas the said Twin-Lick Oil Company of West Virginia has appealed to the Supreme Court of the United States from a decree of the supreme court of the District of Columbia passed in the above-entitled cause on the
403 22nd day of February, A. D. 1873:

Now, if the said appellant shall prosecute its appeal with effect, or, failing therein, shall pay all costs which it shall be lawfully liable to pay to the defendant and appellee in said cause, then this obligation to be void, otherwise to remain in full force and effect.

JNO. D. McPHERSON. [SEAL.]
J. M. CARLISLE. [SEAL.]

Signed, sealed, and delivered in presence of—
CALDERON CARLISLE.

Approved.

Approved Oct. 18, 1873.

MACARTHUR, *Justice.*

404 DISTRICT OF COLUMBIA, *to wit:*

I, R. J. Meigs, clerk of the supreme court of the District of Columbia, do hereby certify that the foregoing 402 pages of writing are

truly copied from the originals on file and of record in the clerk's office of said court, and that said originals together constitute the entire record in an equity cause pending and lately decided by said court, entitled the Twin-Lick Oil Company of West Virginia, complainant, vs. William Marbury, defendant. 2345. Equity docket 11.

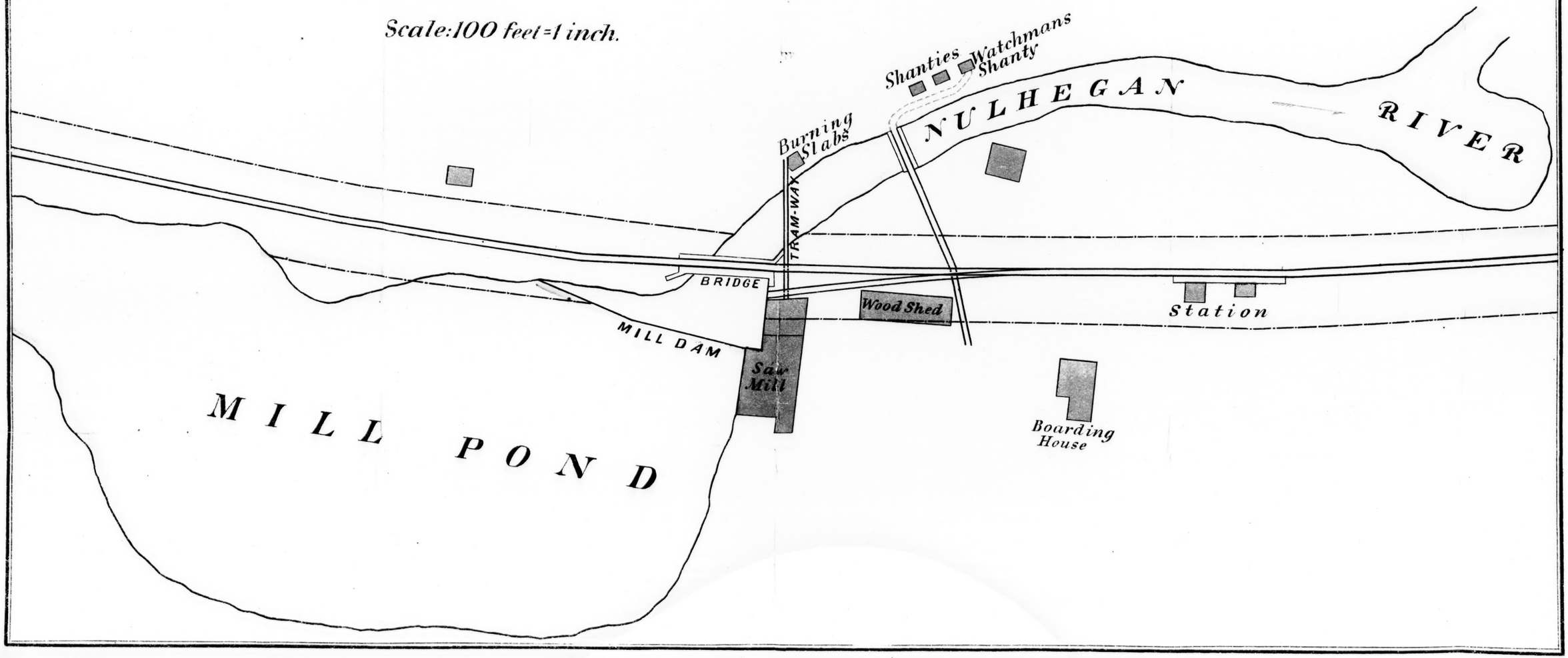
Witness my hand and the seal of said court this 18th day of October, A. D. 1873.

R. J. MEIGS, *Clerk.*
By L. P. WILLIAMS,
Assistant Clerk.

(Indorsement on cover:) No. 285. The Twin-Lick Oil Company of West Virginia, appellant, vs. William Marbury. Dist. of Columbia sup. ct. Filed 18th October, 1873.

REC. 285—8

No 623. { *Grand Trunk Railway Co.* / *vs:* / *Richardson et al.* } *Page 62.*

RICHARDSON'S MILLS.

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